JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Regular Session of 1988

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1988, and
in the One Hundred and Ninety-Seventh
Year of the Commonwealth

Begun on the Fifth Day of January, 1988, and Adjourned
Sine Die on the Fifteenth Day of April, 1988.

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1988.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled at Appendix A.

Mrs. Shan Stone Gray, Mrs. Jean Wallace, Mrs. Delores Dearborn and Mrs. Wilda Bond prepared the 1988 House Journal. The edited copy and index in this volume reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1988

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY
REGULAR SESSION
1988

TUESDAY, JANUARY 5, 1988

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 5, 1988, the one hundred and ninety-sixth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Donald J. Blandford assumed the Chair and called the House to order.

Invocation by Frankfort Community Choir under the direction of Marion Rogers.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Speaker announced the membership of the House remained the same as in the Extraordinary Session of 1987 with the exception of First Legislative District, Representative Charles R. Geveden, and 32nd Legislative District, Representative Anne Meagher Northup. The Clerk read the certificates of the newly elected members from the Secretary of State.

Representative Stumbo moved that the Journal show each newly elected member produced a certificate of election and that the certificates be confirmed. Agreed.

Representative Geveden and Representative Northup produced certificates of election and were duly sworn.

The roll was called. All members present except Representatives Gregory, Robinson, and B. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Stumbo moved the nomination of the following Constitutional officer:

Chief Clerk, Evelyn Marston

Assistant Clerk, Julie Wheat

Enrolling Clerk, Margaret Watts

Sergeant at Arms, Emmett A. Slattery

Chief Doorkeeper, William E. Davis

Cloakroom Keeper, Lawrence Parrish

Cloakroom Keeper, Marjorie H. Embry

Janitor, F. C. Creasy

Page, Jennifer Hancock

Page, Melinda Nickel

Page, Chris Short

Page, Jimmy Miracle

Representative Stumbo moved that the nominations cease and that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable Joyce Albro, Franklin County District Court Judge.

Representative Stumbo moved that the rules be suspended to introduce and act upon **HR 7**, **HR 8**, **HB 9**. Agreed.

HR 7, by Representatives Blandford, Stumbo, Rapier, Richards, and Worthington: A RESOLUTION adopting permanent rules of the House of Representatives.

HR 8, by Representatives Blandford, Stumbo, Richards, Rapier, and Worthington: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

HR 9, by Representatives Blandford, Stumbo, Rapier, Richards, and Worthington: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Stumbo moved the adoption of the following **HR 7**:

HR 7, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.

2. Roll Call.

3. Reading and approval of the Journal.

4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.

5. Report of Reference of Bills to Committees.

6. Report of Committees.

7. First Reading of Bills.

8. Second Reading of Bills.

9. Orders of the Day.

10. Motions, Petitions and Communications.

11. Announcements.

12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.

2. To fix the time to which the House shall adjourn.

3. To adjourn.

4. To take recess.

5. To lay on the table.

6. For the previous question.

7. To limit or extend limits of debate.

8. To postpone to a fixed time.

9. To lay on the Clerk's Desk.

10. To refer or commit.

11. To amend.

12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with LRC to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employes. All the constitutional employes of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employes are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employes. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employes performing such services shall be under the supervision of the Committee on Committees.

No officer or employe of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employes of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employes and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Energy
9. Health and Welfare
10. Judiciary-Civil
11. Judiciary-Criminal

12. Labor and Industry

13. Natural Resources and Environment

14. State Government

15. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee, except the Committee on Appropriations and Revenue which shall have not more than twenty-three (23) members, and the Committee on Education and the Committee on State Government which shall each have not more than twenty-one (21) members. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the state fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations;

life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employes' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. Education: matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. Energy: matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; and gasohol.

9. Health and Welfare: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; correctional penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10. Judiciary-Civil: matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, District Courts, the Court of Appeals, and Circuit Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries, attorneys; commissioners and receivers; and court reporters.

11. Judiciary-Criminal: matters pertaining to support of dependents; statutory actions and limitations; habeas corpus; witnesses; evidence; crimes and punishments; criminal procedure; civil rights; and juvenile matters.

12. Labor and Industry: matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids: hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes: child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

13. Natural Resources and Environment: matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

14. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; commonwealth attorney; circuit clerk; proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

15. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each.

1. Subcommittee on Development and Energy, Natural Resources, and Environmental Protection;

2. Subcommittee on Education;

3. Subcommittee on General Government, Finance, and Public Protection;

4. Subcommittee on Human Resources;

5. Subcommittee on Justice and Judiciary;

6. Subcommittee on Transportation.

Of the seven members of each such subcommittee four shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The remaining three members of each standing subcommittee shall be deemed a liaison subcommittee of the standing committee or committees from which they were appointed. A vice chairman of the standing committee from which such members were appointed shall act as chairman of the liaison subcommittee. The selection of such vice chairman shall be made by the Committee on Committees. If such three members have been appointed from more than one standing committee the Committee on Committees shall determine which standing committee vice chairman shall act as chairman of the liaison subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a committee on conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a committee on free conference, consisting of three or more members. A committee on free conference shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employes required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced conform with the Automated Legal Text Entry and Revision System method of preparation. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52A. Local Mandate Impact Statement. Any bill which relates to any aspect of local government or any service provided thereby shall be analyzed by the LRC for its fiscal impact upon local governments and if determined to contain a local mandate shall have a local mandate impact statement attached prior to final consideration.

No measure which contains a local mandate shall be placed in the Orders of the Day until the local mandate impact statement is attached unless the requirement of the statement has been waived by a vote of two-thirds (2/3) of all members of the House/Senate.

Any member proposing to amend from the floor a bill which contains a local mandate or if the proposed amendment itself contains a local mandate, shall cause a fiscal analysis of the amendment to be made and a local mandate impact statement attached to the proposed amendment. Until such time as the local mandate impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 53. Proposed Administrative Regulations. (1) Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

(2) This amendment of the Rules of the House of Representatives shall apply only to bills introduced after February 5, 1980.

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House clerk shall so notify the clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the general assembly shall become effective upon sine die adjournment of the general assembly unless the general assembly in regular session shall disapprove the proposed regulation.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission

staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 52 relative to fiscal analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a House bill under consideration containing the substantial text of the language of another bill shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of another bill the Speaker shall rule thereon, subject to appeal to the House.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff and so certified by the Clerk, endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the House bill, attested by the Clerk, before delivering the bill to the Enrolling Clerk of the House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available. the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker. before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employes of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employe of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employe. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

Rule 74. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employes of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desk and treated as litter.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 7 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 8**:

HR 8, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open sessions thereof with prayer.

HR 8 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 9**:

HR 9, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 9 was adopted by voice vote.

Representative Stumbo moved that the reading of the pre-filed Bills be waived. Agreed.

Introduction of Bills and Resolutions

HB 1, by Representatives Blandford, Donnermeyer, Worthington, Rapier, Hourigan, Stumbo, Lundergan, Callahan, L. Clark, Ark, Meyer, and Bronger: AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

HB 2, by Representative Maggard: AN ACT relating to funding county management of solid waste.

HB 3, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative Seum: AN ACT naming and declaring May 7 of each year as Barrier Awareness Day throughout the Commonwealth.

HB 4, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Gedling and McElroy: AN ACT relating to sheriffs.

HB 5, with a recommendation for passage by the Interim Joint Committee on State Government, by Representatives Bruce and Morris: AN ACT relating to honoraria.

HB 6, by Representative Maggard: AN ACT relating to elementary and secondary education.

HB 7, by Representative Allen: AN ACT relating to official state songs.

HB 8, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and Long: AN ACT relating to land use development and regulation and related matters.

HB 9, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and Long: AN ACT relating to planning and zoning.

HB 10, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and Bronger: AN ACT relating to planning and zoning.

HB 11, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue, by Representatives Long, Todd, P. Richardson, and Donnermeyer: AN ACT relating to capital construction.

HB 12, with a recommendation for passage by the Interim Joint Committee on Education, by Representative McElroy: AN ACT relating to employment by boards of education, day care centers and foster homes serving minors.

HB 13, by Representative Mason: AN ACT relating to motor vehicle registration.

HB 14, by Representative Kerr: AN ACT relating to public health.

HB 15, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative Gedling: AN ACT relating to examinations for the classified service.

HB 16, by Representative Donnermeyer: AN ACT relating to appeals from district court and issuance of writ by circuit court.

HB 17, for the Small Business Task Force with a recommendation for passage, by Representatives Morris and Reinhardt: AN ACT relating to sales and use taxes.

HB 18, for the Small Business Task Force with a recommendation for passage, by Representatives McElroy and Morris: AN ACT relating to sales and use taxes.

HB 19, for the Task Force on Small Business with a recommendation for passage, by Representatives Morris, Reinhardt, and B. Smith: AN ACT relating to job creation through a tax credit for venture capital investment.

HB 20, by Representative Long: AN ACT relating to the improvement of residential child care in Kentucky.

HB 21, with a recommendation for passage by the Task Force on Elections and Constitutional Amendments, by Representative McElroy: AN ACT proposing amendments to Sections 36 and 42 of the Kentucky Constitution relating to legislative session.

HB 22, with a recommendation for passage by the Interim Joint Committee on Education, by Representative Barrows: AN ACT relating to education for the gifted and talented.

HB 23, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Meyer and Yates: AN ACT relating to planning and zoning.

HB 24, for the Small Business Task Force with a recommendation for passage, by Representatives McElroy, Morris, and Reinhardt: AN ACT relating to state purchasing.

HB 25, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative Long: AN ACT relating to peace officers.

HB 26, by Representative R. Smith: AN ACT relating to district courts.

HB 27, with a recommendation for passage by the Interim Joint Committee on Education, by Representative Noe: AN ACT relating to preschool education.

HB 28, by Representative Callahan: AN ACT relating to crimes and punishments.

HB 29, by Representative Long: AN ACT relating to criminal record checks for certain job applicants.

HB 30, by Representative K. Harper: AN ACT relating to corporate directors.

HB 31, for the Interim Joint Committee on Cities with a recommendation for passage, by Representative Meyer and Mack: AN ACT relating to city elections.

HB 32, by Representative Hoover: AN ACT relating to motor vehicles.

HB 33, by Representative LeMaster: AN ACT relating to taxation.

HB 34, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Gregory and Cline: AN ACT relating to counties.

HB 35, for the Interim Joint Committee on Cities with a recommendation for passage by Representatives Meyer and Callahan: AN ACT relating to property taxation by cities, counties, special districts and urban county governments.

HB 36, by Representative Meyer: AN ACT relating to charter county government.

HB 37, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Barrows: AN ACT relating to textbooks.

HB 38, by Representative Blevins: AN ACT relating to the master list of prospective jurors.

HB 39, by Representatives Mason, Ballard, and Ridley: AN ACT relating to public utilities.

HB 40, with a recommendation for passage by the Interim Joint Committee on Transportation, by Representative Maggard: AN ACT relating to traffic laws.

HB 41, by Representative Callahan: AN ACT relating to public nuisances.

HB 42, by Representative R. Smith: AN ACT relating to traffic laws.

HB 43, with a recommendation for passage by the Task Force on Elections and Constitutional Amendments, by Representative Yates: AN ACT relating to elections.

HB 44, by Representative Noland: AN ACT relating to volunteer workers.

HB 45, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative Hancock: AN ACT relating to state employes.

HB 46, by Representative Maggard: AN ACT relating to crimes and punishments.

HB 47, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representative Castleman and Gedling: AN ACT relating to county surveyors' offices.

HB 48, with a recommendation for passage by the Interim Joint Committee on Health and Welfare, by Representative Meyer: AN ACT relating to mental health.

HB 49, by Representative Arnold: AN ACT relating to motor vehicle licensing.

HB 50, with a recommendation for passage by the Interim Joint Committee on Health and Welfare, by Representative Mason: AN ACT relating to public health.

HB 51, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Meyer, Hoover and Mack: AN ACT proposing to amend the Constitution of Kentucky relative to local government finance.

HB 52, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Meyer, Hoover, Callahan, Mack, and Nett: AN ACT proposing to amend the Constitution of Kentucky relative to city government.

HB 53, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Farrow and Hancock: AN ACT proposing an amendment to Section 231 of the Constitution of Kentucky relating to county officials' sovereign immunity.

HB 54, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and K. Harper: AN ACT relating to land use restrictions imposed under KRS Chapter 100.

HB 55, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and Long: AN ACT relating to planning and zoning.

HB 56, for the Special Committee on Planning and Land Use Management with a recommendation for passage, by Representatives Lear and Yates: AN ACT relating to planning and zoning.

HB 57, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Hancock and Farrow: AN ACT proposing an amendment to Sections 99, 103 and 227 of the Constitution of Kentucky relating to deletion of the elective offices of surveyor and constable.

HB 58, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Cline, Castleman, and Arnold: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 59, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to egg marketing.

HB 60, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Yates, Gedling and Todd: AN ACT relating to legal notices.

HB 61, by Representative Long: AN ACT relating to liens.

HB 62, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus and Maggard: AN ACT relating to temporary license plates.

HB 63, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to dog law administration.

HB 64, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Hancock and P. Richardson: AN ACT relating to motor vehicles.

HB 65, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Adkins and Little: AN ACT relating to motor vehicles.

HB 66, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Maggard and Ridley: AN ACT relating to motor vehicles.

HB 67, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives P. Richardson and Cyrus: AN ACT relating to motor vehicles.

HB 68, for the Interim joint Committee on Transportation with a recommendation for passage, by Representatives Cline and P. Richardson: AN ACT relating to transportation.

HB 69, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to fairs and shows.

HB 70, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives White and Keith: AN ACT relating to teachers.

HB 71, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Mack and Cline: AN ACT relating to teachers.

HB 72, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and White: AN ACT relating to education.

HB 73, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Kerr: AN ACT relating to teachers.

HB 74, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Mack and T. Jones: AN ACT relating to education.

HB 75, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Keith: AN ACT relating to student loans.

HB 76, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and White: AN ACT relating to the Kentucky higher education assistance authority.

HB 77, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Keith: AN ACT relating to the foundation program.

HB 78, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Kerr: AN ACT relating to bidding procedures for the board of education.

HB 79, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Kerr: AN ACT relating to department of education employes.

HB 80, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Keith and White: AN ACT relating to training for new and expanding industries.

HB 81, by Representative Kerr: AN ACT relating to traffic safety.

HB 82, by Representatives Napier, Kerr and Gedling: AN ACT relating to motor vehicle usage tax.

HB 83, by Representative Maggard: AN ACT relating to motor carriers.

HB 84, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Mack: AN ACT relating to sovereign immunity.

HB 85, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Kerr and White: AN ACT relating to higher education.

HB 86, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue, by Representatives Clarke: AN ACT relating to budget administration and declaring an emergency.

HB 87, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives Burch: AN ACT relating to children and making an appropriation therefor.

HB 88, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives Scorsone: AN ACT relating to social workers.

HB 89, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representative Strong: AN ACT relating to campaign finance regulation.

HB 90, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representative Scorsone and L. Clark: AN ACT relating to wages and hours.

HB 91, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Cyrus, Jackson, and Adkins: AN ACT relating to child labor.

HB 92, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Barrows: AN ACT relating to official opinions of the attorney general.

HB 93, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Gedling: AN ACT relating to county audits.

HB 94, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Donnermeyer: AN ACT relating to retirement plans administered by the Kentucky Retirement Systems.

HB 95, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Donnermeyer: AN ACT relating to service credit in more than one state-administered retirement system.

HB 96, for the Interim Joint Committee on Judiciary-Criminal with a recommendation for passage, by Representatives Seum and Scorsone: AN ACT relating to crime victim compensation.

HB 97, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives McElroy and Cline: AN ACT relating to area development districts.

HB 98, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Richards and Hancock: AN ACT relating to local governments.

HB 99, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives M. Brown and Gedling: AN ACT relating to local governments.

HB 100, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives M. Brown and Gedling: AN ACT relating to local governments.

HB 101, for the interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives McElroy and White: AN ACT relating to sheriffs.

HB 102, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representative Strong: AN ACT relating to electronic voting procedures.

HB 103, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to seed.

HB 104, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to commercial feed.

HB 105, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to pet food.

HB 106, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to fertilizer.

HB 107, for the Interim Joint Committee Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to milk.

HB 108, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper and Gedling: AN ACT relating to the Kentucky state fair grounds.

HB 109, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Donnermeyer: AN ACT relating to corporations.

HB 110, for the Interim Joint Committee on State Government with a recommendation for passage, by Representatives O'Brien and L. Clark: AN ACT relating to the Kentucky national guard educational encouragement fund.

HB 111, for the Interim Joint Committee on State Government with a recommendation for passage, by Representatives Ballard and Gedling: AN ACT relating to state employes' reimbursement for travel and declaring an emergency.

HB 112, for the Interim Joint Committee on State Government with a recommendation for passage, by Representatives Gedling and Bronger: AN ACT relating to state owned buildings and grounds.

HB 113, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative O'Brien: AN ACT relating to state vehicles.

HB 114, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Ballard: AN ACT relating to administrative forms.

HB 115, for the Interim Joint Committee on State Government with a recommendation for passage, by Representatives Bronger and Gedling: AN ACT relating to personal and real property inventories.

HB 116, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Ballard: AN ACT relating to floodplain management.

HB 117, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives B. Richardson and P. Richardson: AN ACT relating to the public service commission.

HB 118, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the cabinet for human resources.

HB 119, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to long-term care facilities.

HB 120, for the Interim joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to vital statistics.

HB 121, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to communicable diseases.

HB 122, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to a substance abuse.

HB 123, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to lay midwifery.

HB 124, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the health care of infants.

HB 125, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the Women, Infants and Children Program.

HB 126, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to family planning services.

HB 127, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to public health.

HB 128, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to mental health-mental retardation service programs.

HB 129, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to hotels.

HB 130, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to a merit system for local health departments.

HB 131, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to state confinement facilities.

HB 132, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to sanitation.

HB 133, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to onsite sewage disposal.

HB 134, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to medical laboratories.

HB 135, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to mental health.

HB 136, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to emergency medical services.

HB 137, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to mobile homes.

HB 138, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to social security disability determination.

HB 139, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to state health planning.

HB 140, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to health.

HB 141, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to hospitals.

HB 142, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to health facilities and services.

HB 143, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to long-term care facilities.

HB 144, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to food and cosmetics.

HB 145, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to public health and safety.

HB 146, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to milk manufacturing.

HB 147, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to controlled substances.

HB 148, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to radiation control.

HB 149, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to radiation operators.

HB 150, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to public assistance programs administered by the cabinet for human resources.

HB 151, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to child support.

HB 152, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to food stamps.

HB 153, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to social services programs.

HB 154, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to child day care facilities.

HB 155, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to block grant funds.

HB 156, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to spouse abuse.

HB 157, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to community services block grant programs.

HB 158, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the cabinet for human resources.

HB 159, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the cabinet for human resources.

HB 160, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to the cabinet for human resources.

HB 161, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to medical assistance.

HB 162, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to crippled children's services.

HB 163, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Burch and Yates: AN ACT relating to nursing home administrators.

HB 164, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Gregory and White: AN ACT relating to area development districts.

HB 165, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representative Burch: AN ACT relating to human subject research.

HB 166, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Turner and Siler: AN ACT relating to unemployment insurance.

HB 167, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives P. Clark and Gray: AN ACT relating to unemployment insurance.

HB 168, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Cyrus and Gray: AN ACT relating to unemployment compensation.

HB 169, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Siler and Gray: AN ACT relating to unemployment insurance.

HB 170, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Bruce: AN ACT relating to meetings of the state personnel board.

HB 171, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative L. Clark: AN ACT relating to state employes.

HB 172, for the Interim Joint Committee on State Government with a recommendation for passage, by Representative Donnermeyer: AN ACT relating to planning for information processing.

HB 173, by Representative Kerr: AN ACT relating to mechanics' and materialmen's liens.

HB 174, by Representative Lefevers: AN ACT relating to higher education.

HB 175, by Representative LeMaster: AN ACT relating to automobile insurance.

HB 176, by Representative White: AN ACT relating to teachers retirement and declaring an emergency.

HB 177, by Representative White: AN ACT relating to the state police and their responsibilities relating to arson investigation.

HB 178, by Representatives Turner, Gedling, Napier, Noland, Altman, and Crupper: AN ACT relating to the sale and services of food.

HB 179, by Representative Kerr: AN ACT relating to sales and use tax.

HB 180, by Representative Scorsone: AN ACT relating to higher education.

HB 181, by Representatives Arnold, Moberly, Gedling, Crupper, Napier, L. Clark, Bronger, M. Brown, Hourigan, Preston, Todd, McElroy, Richards, Kerr, Turner, Lyne, Seum, Rapier, Worthington, and T. Jones: AN ACT relating to education.

HB 182, by Representative Guenthner: AN ACT relating to employment by boards of education, day care centers and foster homes serving minors.

HB 183, by Representative Napier: AN ACT to allow voting place reassignment for handicapped voters.

HB 184, by Representative: Farrow: AN ACT proposing an amendment to Sections 201, 209 and 218 of the Constitution of Kentucky relating to abolition of the railroad commission.

HB 185, by Representatives Farrow, Gedling, and R. Smith: AN ACT relating to salary supplements for state police officers.

HB 186, by Representative Crupper: AN ACT relating to horse racing.

HB 187, by Representative Heleringer: AN ACT relating to workers' compensation.

HB 188, by Representative Altman: AN ACT relating to motor vehicle operators' licenses.

HB 189, by Representative Mason: AN ACT relating to use of certified mail for special ballots.

HB 190, by Representatives Callahan, Kerr, Donnermeyer, and Mack: AN ACT relating to school board members.

HB 191, by Representative Kerr: AN ACT relating to hunting.

HB 192, by Representative Lear: AN ACT proposing to amend Section 226 of the Constitution of Kentucky relating to lotteries and gift enterprises.

HB 193, by Representative Burch: AN ACT relating to health insurance.

HB 194, by Representative Adams: AN ACT relating to coal mining.

HB 195, by Representative Donnermeyer: AN ACT relating to the Kentucky Information Systems Commission.

HB 196, by Representative Yates: AN ACT relating to taxidermists.

HB 197, by Representative L. Clark: AN ACT proposing an amendment to the Kentucky Constitution relating to reelection of certain state officers.

HB 198, by Representative M. Brown: AN ACT relating to county license fees.

HB 199, by Representative Long: AN ACT relating to transportation.

HB 200, by Representative Maggard: AN ACT proposing an amendment to the Kentucky Constitution relating to constitutional state officers.

HB 201, by Representative Donnermeyer: AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

HB 202, by Representative Mason: AN ACT relating to the use of certified mail for special ballots.

HB 203, with a recommendation for passage by the Interim Joint Committee on Banking and Insurance, by Representative Cline: AN ACT relating to liability insurance rates.

HB 204, by Representatives Noe and T. Jones: AN ACT relating to school counselors.

HB 205, by Representatives R. Jones and Long: AN ACT relating to solid waste management.

HB 206, by Representative Blevins: AN ACT relating to water supply planning.

HB 207, by Representative Noe: AN ACT relating to education.

HB 208, by Representative Gedling: AN ACT relating to law enforcement officers.

HB 209, by Representative Noe: AN ACT relating to the educational information system.

HB 210, for the Interim Joint Committee on Labor and industry with a recommendation for passage, by Representatives Mason and J. Brown: AN ACT relating to occupational safety and health.

HB 211, by Representative Noe: AN ACT relating to the Kentucky council for educational planning and development.

HB 212, by Representative Donnermeyer: AN ACT proposing to amend the Constitution of Kentucky relative to state officers.

HB 213, by Representative Donnermeyer: AN ACT proposing an amendment to Sections 70, 72, 73, 82, and 91 of the Constitution of Kentucky relating to the joint election of the governor and lieutenant governor.

HB 214, by Representative Donnermeyer: AN ACT proposing to amend Sections 84, 85, and 87 of the Constitution of Kentucky relating to the absence of officers from the Commonwealth.

HB 215, by Representative Donnermeyer: AN ACT proposing an amendment to Sections 84, 85, 86, and 87 of the Constitution of Kentucky relating to the Lieutenant Governor.

HB 216, by Representative Donnermeyer: AN ACT proposing an amendment to the Constitution of Kentucky relating to elections.

HB 217, by Representatives Blevins and M. Brown: AN ACT relating to water infrastructure funding.

HB 218, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Mack: AN ACT relating to teachers' aides.

HB 219, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Mack: AN ACT relating to students' testing and remediation programs.

HB 220, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Mack and Kerr: AN ACT relating to transportation of pupils.

HB 221, by Representative Castleman: AN ACT relating to retirement cost-of-living increases, and declaring an emergency.

HB 222, by Representative Castleman: AN ACT relating to the use of force.

HB 223, by Representative P. Richardson: AN ACT relating to school districts' census.

HB 224, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Mack: AN ACT relating to the commission on the deaf and hearing impaired.

HB 225, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Kerr and T Jones: AN ACT relating to the Kentucky oral history commission.

HB 226, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Cline and Keith: AN ACT relating to reports of retirement funds.

HB 227, for the Special Subcommittee on Veteran's Affairs with a recommendation for passage, by Representatives Hancock, Morris, Siler, and Bruce: AN ACT relating to veterans.

HB 228, by Representatives Little and Stumbo: AN ACT proposing an amendment to Section 19 of the Constitution of Kentucky relating to contracts.

HB 229, by Representative Hatcher: AN ACT proposing to amend Sections 71, 82, and 93 of the Constitution of Kentucky relating to terms of elected officials.

HB 230, by Representatives Castleman, Curd, Blandford, Richards, P. Richardson, Gedling, Ballard, Ridley, J. Brown, Arnold, Farrow, Crupper, Gray, LeMaster, P. Clark, Kerr, Napier, Maggard, Ark, Altman, R. Smith, M. Brown, White, Siler, Mason, B. Smith, Hourigan, Adams, Rapier, Stumbo, Adkins, and Worthington: AN ACT relating to consumer protection.

HB 231, by Representative Heleringer: AN ACT relating to racing.

HB 232, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives Mack and Cline: AN ACT relating to the Department for the Blind.

HB 233, for the Subcommittee for the review of Education Statutes with a recommendation for passage, by Representatives Keith and Mack: AN ACT relating to student records.

HB 234, for the Subcommittee for the Review of Education Statutes with a recommendation for passage, by Representatives T. Jones and Kerr: AN ACT relating to higher education.

HB 235, by Representatives Farrow and Arnold: AN ACT relating to farm debt mediation.

HB 236, by Representative Castleman: AN ACT relating to public assistance and medical assistance.

HB 237, by Representative Donnermeyer: AN ACT relating to trust and agency accounts.

HB 238, by Representative McElroy: AN ACT relating to motor vehicle license plates.

HB 239, by Representative L. Clark: AN ACT relating to waterworks in cities of the first class.

HB 240, for the Special Committee for Planning and Land Use Management with a recommendation for passage, by Representatives Lear and K. Harper: AN ACT relating to planning and zoning.

HB 241, by Representative McElroy: AN ACT relating to motor vehicle license plates.

HB 242, by Representative McElroy: AN ACT relating to motor vehicle license plates.

HB 243, by Representative Rapier: AN ACT relating to alcoholic beverage control.

HB 244, by Representative Long: AN ACT relating to bonds.

HB 245, by Representative Rapier and Blandford: AN ACT relating to revenue and taxation and declaring an emergency.

HB 246, for the Special Subcommittee on Veteran's Affairs with a recommendation for passage, by Representatives Morris, Hancock, Siler, and Bruce: AN ACT relating to holidays for state personnel.

HB 247, by Representative L. Clark: AN ACT relating to individual income tax.

HB 248, for the Special Subcommittee on Veteran's Affairs with a recommendation for passage, by Representatives Morris, Hancock, Bruce, and Siler: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 249, for the Special Subcommittee on Veteran's Affairs with a recommendation for passage, by Representatives Hancock, Morris, Siler, and Bruce: AN ACT relating to the issuance of revenue bonds for financing veterans' nursing homes.

HB 250, by Representative J. Harper: AN ACT proposing an amendment to the Kentucky Constitution relating to the term of the governor.

HB 251, by Representative Burch: AN ACT relating to the certification of denturists.

HB 252, by Representative Seum: AN ACT relating to non-Kentucky hazardous waste.

HB 253, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Turner and Siler: AN ACT relating to apprenticeship.

HB 254, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Siler and Cyrus: AN ACT relating to wages and hours.

HB 255, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Cyrus and L. Clark: AN ACT relating to occupational safety and health.

HB 256, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representative M. Brown: AN ACT relating to occupational safety and health.

HB 257, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to amusement rides.

HB 258, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to pesticides.

HB 259, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to grain insurance and grain dealers.

HB 260, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to grain storage.

HB 261, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to ginseng.

HB 262, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to weights and measures.

HB 263, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to weights and measures.

HB 264, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to tobacco sales.

HB 265, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment compensation.

HB 266, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment insurance.

HB 267, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment insurance.

HB 268, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment insurance.

HB 269, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment insurance.

HB 270, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment compensation.

HB 271, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment compensation.

HB 272, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives Turner, Long, and Cyrus: AN ACT relating to unemployment insurance.

HB 273, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives Lundergan and Handy: AN ACT relating to credit unions.

HB 274, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to licensure for structural pest control.

HB 275, for the Interim Joint Committee on Labor and Industry with a recommendation for passage, by Representatives L. Clark, M. Brown, and Siler: AN ACT relating to unemployment insurance.

HB 276, by Representative Blevins: AN ACT relating to wildlife.

HB 277, by Representative Blevins: AN ACT relating to motor vehicle registration.

HB 278, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representative Crupper: AN ACT relating to livestock sanitation.

HB 279, by Representative Heleringer: AN ACT relating to mailing by members of the general assembly.

HB 280, by Representative Curd: AN ACT relating to vocational school principals.

HB 281, by Representative Donnermeyer: AN ACT relating to state purchasing.

HJR 1, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative Napier: A JOINT RESOLUTION designating the City of Berea as the Folk Arts and Crafts Capital of the Commonwealth of Kentucky.

HR 2, with a recommendation for passage by the Interim Joint Committee on State Government, by Representative R. Smith: A RESOLUTION requesting the Commerce Cabinet to establish an economic development office in Western Kentucky.

HJR 3, with a recommendation for passage by the Interim Joint Committee on Education, by Representative Seum: A JOINT RESOLUTION commemorating the two hundredth year of the Constitution of the United States of America and directing the public schools to post a copy of the Bill of Rights in commemoration thereof.

HJR 4, for the Interim Joint Committee on Transportation with a recommendation for passage, by

Representatives Curd and Hancock: A RESOLUTION directing the Transportation Cabinet to appropriate $20,000,000 for each year of the 1988-89, 1989-90 biennium for the purpose of creating a bridge replacement program separate from the federal plan.

HJR 5, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Arnold and McElroy: A JOINT RESOLUTION directing the creation of a local government constitution and statute revision commission and making an appropriation therefor.

HCR 6, for the Tobacco Task Force with a recommendation for passage, by Representatives Gedling, Arnold, P. Clark, and Farrow: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

HB 282, by Representative Lundergan: AN ACT relating to the legislative education planning commission and making an appropriation therefor.

HB 283, by Representatives Rapier, Ridley, and Mason: AN ACT relating to motor vehicle registration.

HB 284, by Representative K. Harper: AN ACT relating to cigarette license.

HB 285, by Representative Barrows: AN ACT relating to essential skills.

HB 286, by Representative K. Harper: AN ACT relating to state government.

HB 287, by Representative Reinhardt: AN ACT relating to inmates.

HB 288, by Representative Reinhardt: AN ACT relating to sexual offenses.

HCR 10, by Representatives Blandford, Stumbo, Rapier, Richards, and Worthington: A CONCURRENT RESOLUTION adopting the calendar for the 1988 Regular Session.

HR 11, by Representative Siler: A RESOLUTION in memory of Eugene E. Siler, Sr.

HR 12, by Representative Farrow: A RESOLUTION honoring Dr. Jim Peyton upon the occasion of the publication of his first book, *Zions Cause.*

HR 13, by Representatives Stumbo, Blandford, and Rapier: A RESOLUTION honoring Harold E. Conn.

HR 14, by Representatives Blandford and Stumbo: A RESOLUTION honoring outstanding Kentuckian Stuart Kelly, Sergeant-at-Arms.

HR 15, by Representatives Hancock, P. Richardson, Crupper, and Rapier: A RESOLUTION adjourning the House in honor of Ms. Lucile Harter of Frankfort, Kentucky.

Representative Stumbo moved that the rules be suspended to act upon two Resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 13**:

HR 13, A RESOLUTION honoring Harold E. Conn.

WHEREAS, Harold E. Conn honorably served the General Assembly from the 1970 Session through the 1987 Special Session as a doorkeeper of the House; and

WHEREAS, Mr.Conn's many friends and colleagues have long admired his thoughtfulness, helpfulness and diligence, and will always fondly remember his Friday doughnuts;

WHEREAS, Mr. Conn is unable to take his familiar place for the 1988 Session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honor Harold Conn for his service and wish him health and happiness.

Section 2. That when the House adjourns this day, January 5, 1988, it does so in honor of Harold Conn.

Section 3. That a copy of this resolution be sent to Harold Conn.

HR 13 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 14**:

HR 14, A RESOLUTION honoring outstanding Kentuckian Stuart Kelly, Sergeant-at-Arms.

WHEREAS, Mr. Kelly served four terms as a member of the House of Representatives prior to 1974; and

WHEREAS, Mr. Kelly has served intermittently as Sergeant-at-Arms for the House for many years; and

WHEREAS, Mr. Kelly served as the president of the Farm Bureau of Spencer County; and

WHEREAS, Mr. Kelly has served on the Kentucky Board of Soil Conservation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes Stuart Kelly, an outstanding Kentuckian.

Section 2. That when the House of Representatives adjourns this day, Tuesday, January 5, 1988, it does so in honor of Mr. Stuart Kelly.

Section 3. That a copy of this resolution be presented to Mr. Stuart Kelly.

HR 14 was adopted by voice vote.

Motions, Petitions and Communications

The Committee on Committees announced the following changes in Committee appointments:

Representative Lyne - Appointed Vice Chairman, Committee on Agriculture and Small Business.

Representative P. Clark - Appointed Vice Chairman, Committee on Labor and Industry.

Representative Donnermeyer - Appointed Vice Chairman, Committee on State Government.

Representative Northup - Appointed to the Committee on Cities and Committee on Judiciary-Civil.

Representative Geveden - Appointed to the Committee on Agriculture and Small Business, Committee on Judiciary-Civil, and Committee on Judiciary-Criminal.

Representative Hoover - Appointed to the Committee on State Government and removed from the

Committee on Cities.

Representative L. Clark - Appointed the Committee on Appropriations and Revenue and removed from the Committee on State Government.

Representative M. Brown - Appointed to Committee on Rules.

In accordance with the provisions of **HR 9**, the Speaker announced the following members as a Committee to wait upon the Governor: Representatives Lundergan and Overstreet, co-chairmen; Representatives Bronger, Callahan, Hancock, and Lyne.

The Committee appointed to wait upon the Governor and escort him to the House chamber to address the Session, appeared with the Governor.

Governor Wallace G. Wilkinson addressed the House of Representatives.

Representative Stumbo moved that the rules be suspended to act upon Resolutions and Legislative Citations. Agreed.

Representative Hancock moved the adoption of the following **HR 15**:

HR 15, A RESOLUTION adjourning the House in honor of Ms. Lucile Harter of Frankfort, Kentucky.

WHEREAS, Lucile Harter of Frankfort has diligently served the Commonwealth of Kentucky as an accountant with the Legislative Research Commission since January of 1972; and

WHEREAS, Lucile Harter officially left state government employment on October 31st of last year; and

WHEREAS, during her fifteen year tenure with the legislative branch, Lucile Harter was responsible for all accounting duties associated with the General Assembly; and

WHEREAS, known for her knowledge and expertise, Lucile's presence will be sorely missed by her many friends, not only in the Capitol, but throughout state government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby commend and praise Lucile Harter for her many years of dedication and devotion to the General Assembly.

Section 2. That the House does hereby express its sincerest and warmest wishes to Lucile Harter in all of her future endeavors.

Section 3. That the House does hereby proclaim Lucile Harter to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That when the House does adjourn this day, Tuesday, January 5, 1988, it does so in honor and recognition of Ms. Lucile Harter of Frankfort, Kentucky.

Section 5. That Clerk of the House is directed to transmit a copy of this resolution to Lucile Harter.

HR 15 was adopted by voice vote.

Representative Siler moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION in memory of Eugene E. Siler, Sr.

WHEREAS, former Congressman Eugene E. Siler, Sr. passed away recently at the age of eighty-seven; and

WHEREAS, Eugene E. Siler, Sr. was greatly admired and respected, both for his contributions to the people he served and his participation in his religious denomination; and

WHEREAS, Eugene E. Siler served for a decade in Congress, representing the old 8th Congressional District, served four years on the Kentucky Court of Appeals, and was his party's choice for governor in 1951; and

WHEREAS, Eugene Siler is also remembered as a popular and eloquent lay preacher, served a term as moderator of the General Association of Baptists in Kentucky, and was a member of the Cumberland College board of directors; and

WHEREAS, Eugene Siler served his nation in the United States Navy in World War I and in the Army during World War II; and

WHEREAS, Eugene Siler was a loving husband and a devoted father;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its bereavement over the passing of this noble Kentuckian and extends its sympathy to his family.

Section 2. That when the House adjourns this day, January 5, 1988, it does so in fond memory of Eugene E. Siler, Sr.

Section 3. That a copy of this resolution be sent to Mrs. Eugene E. Siler, Sr.

HR 11 was adopted by voice vote.

Representative Siler requested that a call of the roll be taken to show co-sponsors of **HR 11**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 11**: Ackerson, Adkins, Allen, Arnold, Blandford, Blevins, J. Brown, Bruce, Callahan, Castleman, Cline, Curd, Cyrus, Deskins, Donnermeyer, Handy, J. Harper, Hatcher, Hourigan, Jackson, Johnson, Keith, Kerr, Lefevers, Long, Lyne, Maggard, McBee, Moberly, Noland, Overstreet, Priddy, Pritchett, Reinhardt, Riner, Scorsone, Siler, Stumbo, Turner, Walker, Worthington.

Representative Long moved the adoption of the following Legislative Citation No. 1:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Lexington Herald's Jack Brammer on his 37th birthday.

Jack's diligent and factual reporting of legislative activities in a major statewide newspaper has endeared him to members of the Kentucky House of Representatives.

Jack's efforts to maintain an objective view when reporting political news has placed him in a position of esteem among his fellow media representatives as well as legislators.

Jack Brammer, the members of the House of Representatives wish you a very Happy Birthday and a prosperous year. (Sponsored by Representative Long)

Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 289, by Representative Little: AN ACT relating to mining regulations.

HB 290, by Representatives Cyrus and Jackson: AN ACT relating to the compensation of sheriffs.

HB 291, by Representative Deskins: AN ACT relating to the corrections cabinet.

HB 292, by Representative Curd: AN ACT relating to school buildings

HB 293, by Representative Deskins: AN ACT relating to crimes and punishments.

HB 294, by Representatives Bronger, Heleringer, Yates, Blevins, and L. Clark: AN ACT relating to consumer protection.

HB 295, by Representative Maggard: AN ACT relating to deer.

HB 296, by Representative Burch: AN ACT relating to motor vehicles.

HB 297, by Representative Cyrus: AN ACT relating to municipal elections.

HB 298, by Representative Donnermeyer: AN ACT proposing to amend the Constitution of Kentucky relative to public officers.

HB 299, by Representative Donnermeyer: AN ACT relating to hearing aid specialists.

HB 300, by Representative Donnermeyer: AN ACT relating to alcoholic beverages.

HB 301, by Representative Donnermeyer: AN ACT proposing an amendment to the Kentucky Constitution relating to impeachment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 6, 1988.

On the roll call the vote was yeas 75-Adams, Allen, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Lundergan, Lyne, Mack, Maggard, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 3-Deskins, Handy, Overstreet.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 6, 1988

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend J. Williamson Brown, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 5, 1988 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 302, by Representative T. Jones: AN ACT relating to teachers.

HB 303, by Representative Siler: AN ACT proposing an amendment to Sections 112 and 113 of the Constitution of Kentucky relating to courts.

HB 304, by Representative Lundergan: AN ACT relating to selection of jurors.

HB 305, by Representative T. Jones: AN ACT relating to retirement credit.

HB 306, by Representative Scorsone: AN ACT relating to legislative compensation.

HB 307, by Representatives Bruce and Stumbo: AN ACT relating to nonprofit organizations.

HB 308, by Representatives McElroy and Blevins: AN ACT relating to motor vehicles.

HB 309, by Representatives Long and Moberly: AN ACT relating to crimes and punishments.

HB 310, by Representative Long: AN ACT relating to dams and reservoirs.

HB 311, by Representative Long: AN ACT relating to water utilities.

HB 312, by Representative Long : AN ACT relating to school boards.

HB 313, by Representative Long: AN ACT relating to public employes.

HB 314, by Representative B. Richardson: AN ACT relating to limitation of actions.

HR 16, by Representatives Farrow and Hancock: A RESOLUTION honoring General Billy G. Wellman.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 17, HB 18, HB 19, HB 24, HB 59, HB 63, HB 69, HB 103, HB 104 , HB 105, HB 106, HB 107, HB 108, HB 196, HB 235, HB 257, HB 258, HB 259, HB 260, HB 261, HB 262, HB 263, HB 264, HB 274, HB 278, HB 230, HCR 6.**

Appropriations and Revenue: **HB 11, HB 33, HB 86, HB 179, HB 185, HB 217, HB 245, HB 208.**

Banking and Insurance: **HB 175, HB 193, HB 199. HB 203. HB 273.**

Business Organizations and Professions: **HB 163, HB 178, HB 186, HB 231, HB 243, HB 284, HB 300.**

Cities: **HB 31, HB 240, HB 36, HB 23.**

Counties and Special Districts: **HJR 5, HB 4, HB 34, HB 35, HB 47, HB 60, HB 97, HB 98, HB 99, HB 100, HB 101, HB 164, HB 198, HB 290, HB 56, HB 55, HB 54, HB 9, HB 2.**

Education: **HJR 3. HB 6, HB 12, HB 22, HB 27, HB 29, HB 37, HB 70 HB 71, HB 72, HB 73, HB 74, HB 75 , HB 76, HB 77, HB 78, HB 79, HB 80, HB 84, HB 85, HB 174, HB 176, HB 180, HB 181, HB 182, HB 188, HB 190, HB 204, HB 207, HB 209, HB 211, HB 218, HB 219, HB 220, HB 223, HB 224, HB 225, HB 226, HB 232, HB 233, HB 234, HB 247, HB 280, HB 282, HB 285, HB 292.**

Energy: **HB 39, HB 117, HB 239.**

Health and Welfare: **HB 20, HB 14, HB 48, HB 50, HB 87, HB 88, HB 118** through **HB 162, HB 165, HB 236, HB 251, HB 299.**

Judiciary-Civil: **HB 26, HB 30, HB 38, HB 41, HB 61, HB 173.**

Judiciary-Criminal: **HB 16, HB 28, HB 46, HB 58, HB 96, HB 222, HB 288, HB 293.**

Labor and Industry: **HB 90, HB 91, HB 166, HB 167, HB 168, HB 169, HB 187, HB 210, HB 253, HB 254, HB 255, HB 256, HB 265, HB 266, HB 267, HB 268, HB 269, HB 270, HB 271, HB 272, HB 275, HB 294.**

Natural Resources and Environment : **HB 8, HB 10, HB 194, HB 205, HB 206, HB 227, HB 252, HB 276, HB 289, HB 295, HB 191.**

State Government: **HJR 1, HR 2, HB 1, HB 3, HB 5, HB 7, HB 15, HB 21, HB 25, HB 43, HB 45, HB 51, HB 52, HB 53, HB 57, HB 89, HB 92, HB 93, HB 94, HB 95, HB 102, HB 109, HB 110, HB 111, HB 112, HB 113, HB 114, HB 115, HB 116, HB 170, HB 171, HB 172, HB 177, HB 183, HB 184, HB 189, HB 192, HB 195, HB 197, HB 200, HB 201, HB 202, HB 212, HB 213, HB 214, HB 215, HB 216, HB 221, HB 228, HB 229, HB 237, HB 244, HB 246, HB 248, HB 249, HB 250, HB 279, HB 281, HB 286, HB 287, HB 291, HB 297, HB 298, HB 301.**

Transportation: **HJR 4, HB 13, HB 32, HB 42, HB 49, HB 62, HB 81, HB 82, HB 83, HB 238, HB 241, HB 242, HB 277, HB 283, HB 40, HB 64, HB 65, HB 66, HB 67, HB 68, HB 296.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 11, HB 86.**

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Committee reports. Agreed.

Introduction of Bills

HB 315, by Representatives Yates and L. Clark: AN ACT relating to special law enforcement officers.

HB 316, by Representative Lear: AN ACT relating to business combinations.

HB 317, by Representative Curd: AN ACT relating to motor vehicle insurance.

Motions, Petitions and Communications (continued)

Representative Stumbo moved that the rules be suspended to waive the three day posting period of legislation favorably reported by Interim Committees for January 7, 1988 only. Agreed.

Representative McElroy moved that his name be withdrawn as a co-sponsor of **HB 181**. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following Representatives filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 3**, Representatives L. Clark, Maggard; **HB 6**, Representative L. Clark; **HB 22**, Representatives Arnold, Farrow, Moberly; **HB 39**, Representative Little; **HB 50**, Representative P. Richardson; **HB 58**, Representatives Hoover, White; **HB 176**, Representatives Altman, Bruce, Ballard, J. Harper, Hoover, Keith, Lefevers, Maggard, Napier, Noland, Scorsone, Siler, Strong; **HB 204**, Representative Moberly; **HB 230**, Representative Bruce; **HJR 3**, Representative Maggard.

The Clerk announced the filing by the State Board of Elections a biennial report on Voting Equipment and Voting Systems.

Announcements

The following meetings were announced:

Committee on Cities: 9:00 a.m., January 7, 1988.

Committee on Health and Welfare: 10:00 a.m., January 7, 1988, Room 109.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 7, 1988.

On the roll call the vote was yeas 86-Ackerson, Adams, Adkins, Allen, Ark, Arnold, Ballard, Barrows, Blandford, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lundergan, Lyne, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 7-Deskins, Guenthner, Handy, Hatcher, Heleringer, Overstreet, Preston.

The motion to adjourn was adopted.

THURSDAY, JANUARY 7, 1988

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Little and Guenthner.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 6, 1988 be dispensed with and the same approved. Agreed.

Representative K. Harper moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

HR 18, Representative K. Harper: A RESOLUTION honoring the Covington Catholic High School football team and its coaches.

Representative K. Harper moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION honoring the Covington Catholic High School football team and its coaches.

WHEREAS, the Covington Catholic High School "Colonels" completed their regular season with an impressive 14-1 winning season; and

WHEREAS, this determined squad defeated a favored Paducah Tilghman team, 16-6, to capture the state AAA crown; and

WHEREAS, this championship team exemplifies outstanding athletic ability, good sportsmanship and discipline of the highest order; and

WHEREAS, Coach Lynn Ray and Assistant Coaches Mark Goetz, Joe Hartke, and Bob Noll have proven an exceptional ability to instruct, train, and inspire athletes; and

WHEREAS, this State AAA Championship Football Team and its coaches are great sources of pride for Covington Catholic High School and the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes this outstanding championship team and its coaches.

Section 2. That a copy of this resolution be sent to Coach Lynn Ray.

HR 18 was adopted by voice vote.

Representative K. Harper moved that a call of the roll be taken to show co-sponsors of **HR 18**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 18**: Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative K. Harper moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative K. Harper moved the adoption of the following Legislative Citation No. 2. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Lynn Ray, Head Coach, whose aptitude for the international sport of football, whose ability to instruct, train, and inspire athletes, and whose dedication to good sportsmanship and determined competition have led the Covington Catholic Colonels to the 1987-88 AAA Football Championship. Coach Ray, Assistant Coaches Goetz, Hartke, and Noll, and the 1987-88 Colonels are sources of great pride to the Covington Catholic High School and the Commonwealth of Kentucky.

The Kentucky General Assembly joins Representative Ken Harper in saluting and applauding Coach Lynn Ray. (Sponsored by Representative K. Harper)

Representative K Harper moved the adoption of the following Legislative Citation No. 3. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Ron Beard, a member of the 1987-88 State AAA Football Championship Team. Outstanding athletic ability, good sportsmanship, and discipline earned this triumphant victory and a 14 to 1 winning season for the Covington Catholic High School Colonels. Ron Beard, his fellow teammates, and Coaches Ray, Hartke, and Noll are sources of great pride for Covington Catholic High School and the Commonwealth of Kentucky.

The Kentucky General Assembly joins Representative Ken Harper in saluting and applauding Ron Beard. (Sponsored by Representative K. Harper)

Introduction of Bills and Resolutions

HB 318, by Representative Noe: AN ACT relating to teachers' loans and scholarships.

HB 319, by Representative Lundergan: AN ACT relating to the Kentucky athletic commission.

HB 320, by Representatives Farrow and Gedling: AN ACT relating to salary supplements for police officers.

HB 321, by Representative Seum: AN ACT relating to pollution control.

HB 322, by Representative Hancock: AN ACT relating to automobile liability insurance.

HB 323, by Representatives LeMaster, Lear, and K. Harper: AN ACT relating to corporations.

HB 324, by Representatives M. Brown and Ark: AN ACT relating to revenue and taxation.

HB 325, by Representative Johnson: AN ACT relating to nonstock, nonprofit corporations.

HB 326, by Representatives Napier, Gedling, McElroy, Turner, Todd, Keith, Lyne, White, Ford, P. Clark, and Farrow: AN ACT relating to police and firefighter retirement.

HB 327, by Representative Heleringer: AN ACT relating to the court of justice.

HB 328, by Representatives Ackerson and Priddy: AN ACT relating to dangerous instruments.

HB 329, by Representative White: AN ACT relating to health facilities and services.

HCR 17, by Representative White: A CONCURRENT RESOLUTION relating to small coal mine operators.

Committee Appointments

The Clerk announced the Committee on Committees has made the following assignments: Representative Cline to Appropriations and Revenue Budget Subcommittee on Justice, Corrections and Judiciary; Representative Mack to Appropriations and Revenue Budget Subcommittee on Human Resources; Representative Walker to the Committee on Judiciary-Civil.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 317, HB 307, HB 44.**

Education: **HB 302, HB 312, HB 315.**

Energy: **HB 311.**

Judiciary-Civil: **HB 314, HB 304.**

Judiciary-Criminal: **HB 309.**

Natural Resources and Environment: **HB 310.**

State Government: **HB 303, HB 305, HB 306, HB 313, HB 316.**

Transportation: **HB 308.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 12, HB 22, HB 27, HB 37, HB 70, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 78, HB 79, HB 80, HB 84, HB 85, HB 180, HB 204, HB 207, HB 209, HB 211, HB 218, HB 219, HB 220, HB 224, HB 225, HB 226, HB 232, HB 233, HB 234, HB 282, HJR 3.**

Motions, Petitions and Communications

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 12**:

HR 12. A RESOLUTION honoring Dr. Jim Peyton upon the occasion of the publication of his first book, *Zions Cause*.

WHEREAS, Dr. Jim Peyton was a valued employe of the legislature for almost fifteen years, serving as the Deputy Director for Research of the Legislative Research Commission; and

WHEREAS, Jim Peyton is a talented and gifted artist who authored and helped produce his plays *East of Nineveh* and *Marching to Zion*; and

WHEREAS, Jim Peyton has penned a book of short stories, entitled *Zions Cause*, which documents the folk history of the small Kentucky hamlet of Zions Cause during the three decades following 1920; and

WHEREAS, published by Algonquin and scheduled to be released on September 1, 1987, *Zions Cause* is Jim Peyton's first book; and

WHEREAS, *Zions Cause* was reviewed on July 31st by *Publishers Weekly*, a prestigious national trade publication for book publishers; and

WHEREAS, *Zions Cause* received an enthusiastic review and commendation from *Publishers Weekly*; and

WHEREAS, it is highly unusual for *Publishers Weekly* to review an author's first book, much less proffer the glowing accolade bestowed upon Dr. Peyton's *Zions Cause*;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend Dr. Jim Peyton upon the occasion of the publication of his first book, *Zions Cause.*

Section 2. That the members of this august body extend to Jim Peyton their best wishes for his continued success as an author and playwright.

Section 3. That the House hails Dr. Jim Peyton to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That a copy of this resolution be transmitted to Dr. Jim Peyton.

HR 12 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 20**, Representative Will; **HB 31**, Representative Hoover; **HB 50**, Representatives Adams, Castleman, Little, Maggard, Preston, Strong; **HB 110**, Representative Will; **HB 176**, Representatives Adams, Mason; **HB 194**, Representatives Mason, White; **HB 230**, Representative Geveden; **HJR 3**, Representative Clark; **HR 18**, Representatives Bronger, Reinhardt.

Recess

Representative Stumbo moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 8, 1988.

The motion that the House adjourn was adopted by voice vote.

FRIDAY, JANUARY 8, 1988

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Clarke, Cline, Deskins, Gregory, Guenthner, Hourigan, R. Jones, Little, Lundergan, Priddy, B. Richardson, Ridley, and R. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 7, 1988 be dispensed with and the same approved. Agreed.

Representative Farrow moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

Representative Farrow moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION honoring General Billy G. Wellman.

WHEREAS, General Billy Wellman has completed an unprecedented and distinguished ten-year tenure as Adjutant General of the Commonwealth of Kentucky; and

WHEREAS, under his tutelage, the Kentucky National Guard has grown from fifty to seventy-four units, and has become a model of readiness emulated by Guard units of other states, distinguishing itself in numerous ways, including being cited for having the best battalion in the entire Army (the First Battalion of the 623rd Field Artillery), being the first reserve component to receive a Black Hawk helicopter, as well as the first reserve component to have a Black Hawk helicopter company and the first to have a battalion dedicated solely to the M1 Abrams tank; and

WHEREAS, General Wellman's tenure has been marked by an emphasis on education, with his GED program being honored for innovativeness and effectiveness; and

WHEREAS, General Wellman's leadership was characterized by General Johnny J. Johnston, Commander of the Second U.S. Army, upon the occasion of his presenting General Wellman with the Distinguished Service Medal, as "a masterful balance between innovative mission accomplishment and the welfare of the soldiers"; and

WHEREAS, no tribute to his exceptional career should overlook the fact that at one point during the governorship of John Y. Brown, Adjutant General Wellman also served as Justice Secretary and State Police Commissioner, as well as head of the state air fleet and head of Disaster and Emergency Services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes this remarkable Kentuckian and wishes him every future happiness.

Section 2. That when the House adjourns this day, January 8, 1988, it does so in tribute to General Billy Wellman.

Section 3. That a copy of this resolution be sent to General Wellman.

HR 16 was adopted by voice vote.

Representative Farrow moved that a call of the roll be taken to show co-sponsors of **HR 16**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 16**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Jackson, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Mason, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Rapier, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, Siler, B. Smith, Stumbo, Todd, Turner, Walker, White, Worthington, Yates.

Introduction of Bills and Resolutions

HB 330, by Representative Seum: AN ACT relating to workers' compensation.

HB 331, by Representative P. Richardson: AN ACT empowering federal law enforcement officers to arrest persons who violate Kentucky law.

HB 332, by Representatives Allen and Stumbo: AN ACT relating to controlled substances.

HB 333, by Representative Mack: AN ACT relating to senior citizen discounts.

HB 334, by Representative Mack: AN ACT proposing an amendment to the Kentucky Constitution relating to education.

HB 335, by Representative Mack: AN ACT relating to taxation.

HB 336, by Representative Mack: AN ACT relating to school accreditation.

HB 337, by Representatives Blandford, O'Brien, Burch, Priddy, Barrows, Bruce, Deskins, McBee, Stumbo, Meyer, Arnold, Johnson, Moberly, T. Jones, Noe, Richards, Long, Clarke, Worthington, Rapier and K. Harper: AN ACT relating to administrative regulations and declaring an emergency.

HB 338, by Representatives Johnson and Kerr: AN ACT relating to federal liens.

HB 339, by Representative Blevins: AN ACT relating to motor vehicles.

HB 340, by Representatives Blevins and L. Clark: AN ACT relating to physically disabled adults.

HB 341, by Representative Freibert: AN ACT relating to garnishment.

HB 342, by Representative T. Jones: AN ACT relating to candidates.

HR 19, by Representatives Blandford, Richards, Rapier and Worthington: A RESOLUTION amending Rule 47 of the Rules of the House of Representatives.

HR 20, by Representatives Blandford, Richards, Stumbo, Worthington and Rapier: A RESOLUTION amending Rule 58 of the Rules of the House of Representatives.

HR 21, by Representatives Blandford, Richards, Rapier, Worthington and Stumbo: A RESOLUTION amending Rule 73 of the House of Representatives.

HR 22, by Representatives Yates, Lile, Donnermeyer, P. Clark and Burch: A RESOLUTION adjourning the House of Representatives in memory and honor of Raymond Aloysius Quinlan.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 320, 324.**

Banking and Insurance: **HB 322.**

Business Organizations and Professions: **HB 325.**

Cities: **HB 326.**

Education: **HB 318, 319.**

Judiciary-Civil: **HB 323, 327.**

Judiciary-Criminal: **HB 328, 329.**

Natural Resources and Environment: **HB 321, HCR 17.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 3, HB 5, HB 15, HB 25, HB 43, HB 45, HB 51, HB 52, HB 53, HB 57, HB 92, HB 93, HB 89, HB 94, HB 95, HB 102, HB 109, HB 110, HB 111, HB 112, HB 113, HB 114, HB 115, HB 116, HB 171, HB 170, HB 172, HB 177, HB 246, HB 248, HB 249, HJR 1, HR 2.**

Judiciary-Civil: **HB 41.**

Health and Welfare: **HB 48, HB 50, HB 87, HB 88, HB 118, HB 119, HB 120, HB 121, HB 122, HB 123, HB 124, HB 125, HB 126, HB 127, HB 128, HB 129, HB 130, HB 131, HB 132, HB 133, HB 134, HB 135, HB 136, HB 137, HB 138, HB 139, HB 140, HB 141, HB 142, HB 143, HB 144, HB 145, HB 146, HB 147, HB 148, HB 149, HB 150, HB 151, HB 152, HB 153, HB 154, HB 155, HB 156, HB 157, HB 158, HB 159, HB 160, HB 161, HB 162, HB 165.**

Banking and Insurance: **HB 203, HB 307, HB 317, HB 273, HB 199, HB 175.**

Agriculture and Small Business: **HB 230, HB 17, HB 18, HB 19, HB 24, HB 59, HB 63, HB 69, HB 103, HB 104, HB 105, HB 106, HB 107, HB 108, HB 257, HB 258, HB 259, HB 260, HB 261, HB 262, HB 263, HB 264, HB 274, HB 278, HCR 6.**

Cities: **HB 23, HB 31, HB 240.**

Judiciary-Criminal: **HB 58, HB 96.**

Transportation: **HB 40, HB 62, HB 64, HB 65, HB 66, HB 67, HB 68, HJR 4.**

Natural Resources and Environment: **HB 227, HB 8, HB 10.**

Business Organizations and Professions: **HB 163.**

Counties and Special Districts: **HB 2, HB 4, HB 9, HB 34, HB 35, HB 47, HB 54, HB 55, HB 56, HB 60, HB 97, HB 98, HB 99, HB 100, HB 101, HB 164, HJR 5.**

Labor and Industry: **HB 90, HB 91, HB 166, HB 167, HB 168, HB 169, HB 210, HB 253, HB 254, HB 255, HB 256, HB 265, HB 266, HB 267, HB 268, HB 269, HB 270, HB 271, HB 272, HB 275.**

Education: **HB 176**.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Yates moved the adoption of the following **HR 22**.

HR 22, A RESOLUTION adjourning the House of Representatives in memory and honor of Raymond Aloysius Quinlan.

WHEREAS, Senator Bill Quinlan is an esteemed member of the Senate of the Commonwealth of Kentucky; and

WHEREAS, his father, Raymond Aloysius Quinlan, passed away at age 88; and

WHEREAS, Mr. Quinlan is survived by his wife, Etta; two sons, Urban J. and William L.; four daughters, Alice Harris, Carol Binder, Pauline Blincoe and Dolores Graven; 25 grandchildren; and 23 great-grandchildren;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives express their sympathy and condolences to Senator Quinlan, his mother, sisters and brother.

Section 2. That this honorable body commends Senator Quinlan and his family members to the solace of the Almighty, and to seek understanding of the devastating loss of their loved one.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Friday, January 9, 1988, it does so in memory and honor of Raymond Aloysius Quinlan.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Senator Quinlan and his family.

HR 22 was adopted by voice vote.

Representative Yates moved that a call of the roll be taken to show co-sponsors of **HR 22**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 22**: Adkins, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, L. Clark, P. Clark, Crupper, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, Heleringer, Hoover, Jackson, T. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lyne, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Preston, Rapier, Richards, P. Richardson, Riner, Seum, Siler, B. Smith, Strong, Stumbo, Todd, Turner, White, Worthington, Yates.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Transportation will meet Monday, January 11, 1988.

State Government will meet in Room 116 at 3:00 p.m. on Monday, January 11, 1988.

Budget Review Subcommittee on Natural Resources will meet in Room 104 at 2:30 p.m. on Monday, January 11, 1988.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m. on Monday, January 11, 1988.

The motion that the House adjourn was adopted by voice vote.

MONDAY, JANUARY 11, 1988

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Lefevers, Overstreet and Walker.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 8, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 16** and **SB 28**.

Introduction of Bills and Resolutions

HB 343, by Representatives Morris, Bruce, Priddy, M. Brown, B. Smith, Turner, Altman, Gray, Cyrus, O'Brien, Lundergan, Geveden, Adkins, Stumbo and Reinhardt: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 344, by Representative Blevins: AN ACT relating to juries.

HB 345, by Representative Blevins: AN ACT relating to parenting and family life skills education.

HB 346, by Representative Blevins: AN ACT relating to crimes and punishments.

HB 347, by Representative Blevins: AN ACT relating to the promotion of voting.

HB 348, by Representative Blevins: AN ACT relating to voter education.

HB 349, by Representatives Richards, B. Smith and Altman: AN ACT relating to crimes and punishments.

HB 350, by Representatives Richards, B. Smith and Altman: AN ACT relating to crimes and punishments.

HB 351, by Representatives Richards, B. Smith and Altman: AN ACT relating to controlled substances.

HB 352, by Representatives Richards, B. Smith and Altman: AN ACT relating to controlled substances.

HB 353, by Representatives Richards, B. Smith and Altman: AN ACT relating to controlled substances.

HB 354, by Representative Farrow: AN ACT relating to the Kentucky state police.

HR 23, by Representatives Blandford, Stumbo, Worthington, Richards, Rapier and Clarke: A RESOLUTION ADJOURNING the House of Representatives in honor of C. Gilmore Dutton.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 335**.

Counties and Special Districts: **HB 338**.

Education: **HB 336**.

Health and Welfare: **HB 340**.

Judiciary-Civil: **HB 341**.

Judiciary-Criminal: **HB 332**.

Labor and Industry: **HB 330**.

Natural Resources and Environment: **HB 333**.

State Government: **HB 331**, **HB 334**, **HB 337**, **HB 342**.

Transportation: **HB 339**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been withdrawn from committee consideration:

Cities: **HB 36**.

Report of Committees

The Committee on State Government reported **HB 15**, **HB 25**, **HB 43**, **HR 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to examinations for the classified service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the:

(a) Classified service governing;[~~:~~]

1.[~~(a)~~] Applications and examinations, *except that the commissioner shall not place a limitation on the number of times an applicant can be examined for a particular job class or series;*

2.[~~(b)~~] Certification and selection of eligibles;

3.[~~(c)~~] Classification and compensation plans;

4.[~~(d)~~] Incentive programs;

5.[~~(e)~~] Layoffs;

6.[~~(f)~~] Registers;

7.[~~(g)~~] Types of appointments; *and*

8.[~~(h)~~] Attendance; hours of work; compensatory time; annual, court, military, sick, voting and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employes may accumulate leave time below the rate effective on December 10, 1985; and

(b) [~~Regulations for the~~] Unclassified service.

(2) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employe's salary;

(b) As provided by KRS 18A.0751(4)(c), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months, but not to exceed twelve (12) months, to the board for its approval.

(3) (a) Such administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employes and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the department of personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(4) Prior to filing an administrative regulation with the legislative research commission, the commissioner shall submit such administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the legislative research commission pursuant to the provisions of KRS Chapter 13A.

(5) The administrative regulations shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class;

1. The commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position;

2. The secretary of the finance and administration cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the finance and administration cabinet on the basis

of the availability of funds. The finance and administration cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the finance and administration cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employe's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the commissioner for a period not to exceed one (1) additional year;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience; or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(l) For such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

HB 25, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Persons who are employed by the United States Secret Service, Bureau of Alcohol Tobacco and Firearms, and the United States Marshal's Service of the United States government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies.

HB 43, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) A presidential preference primary shall be held on the date established by KRS 118.561. All other primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the *third* [~~fourth~~] Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

HR 2, A RESOLUTION requesting the Commerce Cabinet to establish an economic development office in Western Kentucky.

WHEREAS, the western portion of the Commonwealth of Kentucky has suffered economically from the decline of the coal industry and agriculture; and

WHEREAS, Western Kentucky has not realized the benefits of economic development as have other portions of the Commonwealth; and

WHEREAS, the Commerce Cabinet, Department of Economic Development, has the responsibility and authority to establish and maintain economic development offices;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Commerce Cabinet of the Commonwealth of Kentucky be and is hereby requested and encouraged to establish an economic development office in Western Kentucky to promote, advertise, and coordinate economic development in Western Kentucky.

Motions, Petitions and Communications

Representative Arnold moved that **HB 9**, **HB 54**, **HB 55**, and **HB 56** be reassigned to the Committee on Cities. Agreed.

Representative Noe moved that **HB 247** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 23**:

HR 23, A RESOLUTION adjourning the House of Representatives in honor of C. Gilmore Dutton.

WHEREAS, C. Gilmore Dutton has given his untiring service and unbounded expertise to the Legislative Research Commission and the General Assembly since that propitious day, July 10, 1972; and

WHEREAS, C. Gilmore Dutton has just begun a perilous journey into the uncharted waters of his 50th year with the first day of that journey having started yesterday, January 10; and

WHEREAS, we, the members of this august body, wish to offer our collective commiserations and congratulations as the distinguished Mr. Dutton embarks on this adventure; and

WHEREAS, the members of this body also wish to convey our most sincere felicitations to this humble and hard-working public servant as well as wish him continued good health, good times and the wisdom and insight to raise revenue without affecting any of the constituents of this honorable body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House hails and extolls the exemplary contributions and almost 16 years of service to the General Assembly by one C. Gilmore Dutton, staff administrator of the ever-vigilant appropriations and revenue committee.

Section 2. That when this honorable body does adjourn this day, Monday, January 11, 1988, it does so in honor of the 50th birthday of said public servant, one C. Gilmore Dutton.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to C. Gilmore Dutton.

HR 23 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 23**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 23**: Adams, Adkins, Allen, Altman, Ark, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, L. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Guenthner, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, White, Will, Worthington, Yates.

Representative Barrows moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes Malone

& Hyde Incorporated, Nicholasville Division, on the achievement of your drivers completing over one million miles of safe driving, representing a time period of six months, without a chargeable accident.

Further, this prestigious body joins Representative Joe Barrows in saluting Mr. A. C. Best, Jr., President of the Nicholasville Division, along with the drivers who have become members of the company's Million Mile Club, on this outstanding accomplishment which many companies only dream of achieving and one that Malone & Hyde has attained in only two other divisions. (Sponsored by Representative Barrows)

Agreed.

Representative Gray moved that **HB 294** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved the rules be suspended for the Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 355, by Representative Heleringer: AN ACT relating to pharmacies.

HB 356, by Representatives Crupper, Farrow and P. Richardson: AN ACT relating to retirement.

HB 357, by Representatives Crupper, Little, Hancock, P. Richardson and Rapier: AN ACT relating to motor vehicle usage tax.

HB 358, by Representative Clarke: AN ACT relating to thistles.

HB 359, by Representatives Clarke, Long and Cline: AN ACT relating to health insurance coverage for state employes.

HB 360, by Representative Farrow: AN ACT relating to motor vehicle operators' licenses.

Motions, Petitions, and Communications (cont'd)

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Casebier, Will and P. Clark; **HB 12**, Representative Casebier; **HB 20**, Representative Northup; **HB 41**, Representatives Donnermeyer, K. Harper, Kerr, Meyer, and Walker; **HB 50**, Representatives Blevins and Todd; **HB 174**, Representative Casebier; **HB 176**, Representatives Blevins, Casebier, and Curd; **HB 178**, Representative Casebier; **HB 181**, Representative Reinhardt; **HB 204**, Representative Casebier; **HB 206**, Representative L. Clark; **HB 209**, Representative Moberly; **HB 221**, Representative Hancock; **HB 223**, Representative Moberly; **HB 230**, Representatives Bronger, Burch, Callahan, Casebier, L. Clark, Cyrus, Donnermeyer, Freibert, Hancock, Hoover, Jackson, A. Jones, B. Jones, Layman, Lear, Lefevers, Lile, Long, Lundergan, McElroy, Meyer, Nett, Noe, Noland, Lyne, Preston, Reinhardt, Robinson, Strong, Todd, Walker and Yates; **HB 247**, Representative Donnermeyer; **HB 249**, Representative Napier; **HB 283**, Representative K. Harper; **HB 307**, Representatives Noland and B. Smith; **HB 317**, Representative Napier; **HB 318**, Representative Moberly; **HJR 3**, Representatives Will, Casebier and P. Clark.

Representative Todd requested that his name be withdrawn as co-sponsor of **HB 60**.

Announcements

Representative Stumbo announced **HR 19**, **HR 20** and **HR 21** will be acted upon Tuesday, January 12.

The following meetings were announced:

Labor and Industry will meet at 9:15 a.m., January 12.

Judiciary-Civil will meet in Room 105.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Tuesday, January 12, 1988.

On the roll call the vote was yeas 81-Adams, Adkins, Allen, Ark, Arnold, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, White, Will, Worthington, Yates. Nays 6-Bronger, Guenthner, Heleringer, LeMaster, Lile, Maggard.

The motion to adjourn was adopted.

TUESDAY, JANUARY 12, 1988

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 11, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 18**, **SB 24**, **SB 25**, **SB 29** and **SB 30**.

Introduction of Bills and Resolutions

HB 361, by Representatives Morris and Bruce: AN ACT relating to insurance reports.

HB 362, by Representative Burch: AN ACT relating to the Kentucky medical assistance program outpatient drug list.

HR 24, by Representatives Bronger, Gedling, P. Clark and Heleringer: A RESOLUTION petitioning the United States Congress to amend the 1984 Cable Communications Policy Act to return control to local and state governments.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 356**, **HB 358**.

Appropriations and Revenue: **SB 16**.

Banking and Insurance: **HB 359**.

Education: **HB 345**, **HB 348**.

Health and Welfare: **HB 355**.

Judiciary-Civil: **HB 344**.

Judiciary-Criminal: **HB 343**, **HB 346**, **HB 349**, **HB 350**, **HB 351**, **HB 352**, **HB 353**.

State Government: **HB 347**, **354**, **SB 28**, Biennial Report from Secretary of State concerning report on voting equipment and voting systems.

Transportation: **HB 357**, **HB 360**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 14**.

State Government: **HB 337**, **HB 342**.

Report of Committees

The Committee on Banking and Insurance reported **HB 307** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 307, AN ACT relating to nonprofit organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person who serves as a director, officer or trustee of a nonprofit organization qualified as a tax-exempt organization under Section 501(c) of the internal revenue code of 1954, as from time to time amended, and who is not compensated for such services on a salary or prorated equivalent basis, shall be immune from civil liability for any act or omission resulting in damage or injury occurring on or after the effective date of this section, if such person was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by the wilful or wanton misconduct of such person.

The Committee on Education reported **HB 12** with Committee Amendments attached thereto, **HB 22**, **HB 27** with Committee Amendment attached thereto, **HB 71**, **HB 74**, **HB 75**, **HB 180** with Committee Substitute attached thereto, and **HB 218** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to employment by boards of education, day care centers and foster homes serving minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 17.165 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) *As used in this section "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 529.070, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.*

(2) As used in this section "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No [~~state board of education pursuant to KRS 156.070 or local board of education of either an independent or county school district pursuant to KRS 160.290 and no~~] child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, any person *who is a violent offender or has been* convicted of a sex crime. Each [~~board of education and each~~] child-care center shall request the criminal record of prior sex crime *and violent crime* convictions or pleas of guilty of any applicant for employment from the justice cabinet prior to employing the applicant[~~; except that the provisions of this section shall not apply to any church sponsored school, private school, or church sponsored day-care center~~].

(5)[~~(2)~~] Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6)[~~(3)~~] Any request for records under subsection *(4)* [~~(1)~~] of this section shall be on a form approved by the justice cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after the effective date of this Act.

[~~(4) As used in this section "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.340 to 531.370, and the criminal offense of unlawful transaction with a minor in the first degree. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above subsections if committed in Kentucky.~~]

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The state department of education shall not employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined in Section 1 of this Act. The department of education shall request the criminal record of prior sex crime and violent crime convictions or pleas of guilty of any applicant for employment from the justice cabinet prior to employing the applicant.

(2) Each application form, provided by the department of education to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(3) Any request for records under subsection (1) of this section shall be on a form approved by the justice cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(4) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after the effective date of this Act.

SECTION 3. KRS 199.462 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) Before any applicant to provide foster care home services to a minor may be approved, the cabinet for human resources shall request from the justice cabinet records of all available convictions involving any sex crime or crime of violence *as defined in Section 1 of this Act* for the applicant. The justice cabinet shall furnish the information to the cabinet for human resources and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the justice cabinet and the justice cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 4. KRS 160.380 is amended to read as follows:

(1) All appointments, promotions and transfers of principals, supervisors, teachers and other public school employes shall be made only upon the recommendation of the superintendent of schools, subject to the approval of the board. If the board of education cannot agree with the superintendent as to any legally qualified person recommended by the superintendent, the board of education may appeal to the state board of education to review the case and the decision of the state board of education shall be final. All employes of the board shall have such qualifications as are prescribed by law and by the regulations of the state board of and of the employing board. Supervisors, principals, teachers and other employes may be appointed by the board of education for any school year at any time after February 1 next preceding the beginning of the school year.

(2) No board of education shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by Section 1 of this Act. Each board shall request the criminal record of prior sex crime and violent crime convictions or pleas of guilty of any applicant for initial employment from the justice cabinet prior to employing the applicant.

(3) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(4) Any request for records under subsection (2) of this section shall be on a form approved by the justice cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(5) The provisions of this section shall apply to all applicants for employment in a position which involves supervisory or disciplinary power over a minor after the effective date of this Act.

SECTION 5. KRS 17.990 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employe who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection *(4)* [~~(1)~~] of KRS 17.165 may be liable for license revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the cabinet for human resources; *and*

(b) [~~The department of education may withhold funds allotted under KRS 157.350 from any board of education which violates subsection (1) of KRS 17.165 in the amount of one thousand dollars ($1,000) per violation; and~~

~~(c)~~]In addition to penalties listed in this subsection, any child-care center [~~or any board of education~~] which violates subsection *(4)* [~~(1)~~] of KRS 17.165 shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 6. KRS 156.990 is amended to read as follows:

(1) Any witness who fails, without legal excuse, to attend or to testify, when required by the superintendent of public instruction under these provisions, shall be fined not more than twenty-five dollars ($25.00) for each offense.

(2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be fined not more than five hundred dollars ($500) or imprisoned not more than three (3) months, or both.

(3) A violation of subsection (1) of Section 2 of this Act shall cause the department of education to be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 7. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten (10) nor more than fifty dollars ($50.00).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not

less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any superintendent who violates any of the provisions of KRS 160.420 shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense.

(5) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty (50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

(6) The state board of education may withhold funds allotted under KRS 157.350 from any board of education which violates subsection (2) of Section 4 of this Act in the amount of one thousand dollars ($1,000) per violation.

(7) In addition to penalties listed in this section, any board of education which violates subsection (2) of Section 4 of this Act shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

The Committee Amendment No. 1 to **HB 12** is as follows:

Amend printed copy of **HB 12** on page 2, line 12, after the word "request", insert the following:

"*all conviction information for*";

On page 2, line 13, delete all underlined language;

On page 2, line 12, bracket and strike through all language beginning with the word "the" through the word "of" the second time it appears on line 13 of page 2;

On page 3, line 24, after the word "*request*" delete all language through the word "*of*" the second time it appears on line 25 and insert the following in lieu thereof:

"*all conviction information for*"

On page 4, line 22, delete all underlined language;

On page 4, line 21, after the word "all", insert the following:

"*conviction information*"

On page 4, bracket and strike through all language beginning with the word "available" on line 21 through the word "violence" on line 22;

On page 5, line 25, delete all language beginning with the word "*the*" through the word "*of*" on line 1 of page 6 and insert in lieu thereof:

"*all conviction information for*".

The Committee Amendment No. 2 to **HB 12** is as follows:

Amend printed copy of **HB 12** on page 5, line 21, after the word "*education*" insert the following:

"*or private, parochial or church regular day school*"

On page 5, line 25, after the word "*board*" insert the following:

"*or school*"

On page 9, line 3, after the word "*education*" insert the following:

"*or private, parochial or church regular day school*"

The Committee Amendment No. 3 to **HB 12** is as follows:

Amend printed copy of **HB 12** on page 2, line 10, before the word "sex" inserting the following: "*felony*".

On page 3, line 22, after the word "*a*" insert the following: "*felony*".

On page 5, line 24, after the word "*a*" insert the following: "*felony*".

The Committee Amendment No. 4 to **HB 12** is as follows:

Amend printed copy of **HB 12** on page 6, line 3, after "*(3)*" insert the following:

"*(a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a board may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employe shall be made no later than the date probationary employment begins.*

(b) Employment shall be contingent on the receipt of records documenting that the probationary employe has no record of a sex crime nor as a violent offender as defined in section 1 of this Act.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(4)";

On page 6, line 8, change "*(4)*" to "*(5)*";

On Page 6, line 13, change "*(5)*" to "*(6)*";

On page 6, line 14, after the word "*for*" insert "*initial*";

On page 6, line 16, after the ".", insert the following:

"*Initial employment shall include first time applicants and applicants who were former employes of the district but have not been employed by the district for six (6) months.*"

The Committee Title Amendment to **HB 12** is as follows:

Amend printed copy of **HB 12**, Title, by amending the title to read as follows:

"AN ACT relating to criminal record checks for certain job applicants."

HB 22, AN ACT relating to education for the gifted and talented.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented

children [~~when units are included in the executive budget~~], classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) (a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).

(b) Effective July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve

(12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board of education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment;

(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.

(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and

(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12) *Unless otherwise provided by the general assembly in a budget bill, one (1) classroom unit shall be allotted for each sixty (60) gifted and talented students identified in the prior year in accordance with the provision of law and Kentucky administrative regulations adopted by the state board of education for a minimum of two hundred twenty-five (225) minutes of instruction within the school day per week. Units shall be allotted by tenths when the number of students does not total the number required for a whole unit. Calculations for units for gifted and talented students shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its gifted and talented students in accordance with approved guidelines. No local school district shall be allotted more classroom units than the number necessary to serve five percent (5%) of its total prior year's average daily attendance.*

(13) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), [~~and~~] (10) *and (12)* of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(14)[~~(13)~~] In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9), [~~and~~] (10) *and (12)* of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(15)[~~(14)~~] Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(16)[~~(15)~~] In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

[~~(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.~~]

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections [~~(12) and~~] (13) *and (14)* of this section for related services for exceptional children.

Section 2. KRS 158.600 is amended to read as follows:

[~~(1)~~] It is the intention of the general assembly in enacting KRS 158.605 to 158.620 and 157.360 to provide [~~experimental or classroom unit~~] programs of instruction for gifted and talented students in the division of program development, office of instruction of the department of education.

[~~(2) State direction and implementation of a statewide gifted and talented education program is manifested in the biennial appropriation of funds to finance such classroom units or experimental programs. The rate at which gifted and talented units or experimental programs are funded indicates the state's ability to assure a quality educational opportunity for appropriate students.~~]

Section 3. KRS 158.607 is amended to read as follows:

An advisory council for gifted and talented education is created and attached to the state board of education to develop and to recommend to the superintendent of public instruction and the state board of education a program of instruction and methods of operation for gifted and talented programs in the Commonwealth.

(1) The advisory council shall be composed of eleven (11) voting members appointed by the governor and two (2) non-voting, ex officio members and it is recommended that:

(a) Two (2) members should be superintendents of local school districts;

(b) Two (2) members should be teachers within local school districts, one (1) who is a gifted and talented teacher in an elementary or secondary school, and one (1) who is a teacher in a regular classroom program;

(c) Four (4) members should be professors of education; one (1) a professor of gifted and talented education, one (1) a professor with expertise in tests and measurements, one (1) a professor of curriculum and program development and one (1) a professor in program evaluation from Kentucky public universities;

(d) One (1) member should be a parent advocate of gifted and talented education;

(e) One (1) member should be a parent-at-large;

(f) One (1) member should be a gifted and talented program coordinator from a Kentucky school district; and

(g) The chairman of the Kentucky state board of education and the superintendent of public instruction shall be ex officio, non-voting members.

(2) The powers and duties of this advisory council shall exist for a period of two (2) years beginning July 15, *1988* [~~1986~~]. Continuation beyond this two (2) year period shall be contingent upon re-creation by

the general assembly. The program review and investigations committee shall review the activities and accomplishments of this advisory council and the gifted and-talented program prior to the next regular session of the general assembly. This committee shall make recommendations to the general assembly regarding the need for continuance of the council, changes in purpose and functions, changes in composition, and changes in appropriations.

(3) Individual appointments to the council shall be made for a two (2) year period [~~beginning July 15, 1984~~]. Members may be reappointed to the council for successive terms if the council is re-created by the general assembly. Vacancies shall be filled by the governor as they occur in a manner consistent with the provisions for initial appointment.

(4) At the first meeting of the council, a chairman shall be elected by and from the membership. An executive secretary appointed by the superintendent of public instruction shall keep records of proceedings and shall prepare approved recommendations for transmission to the superintendent, the state board of education and other appropriate agencies.

(5) The council shall meet at least quarterly during each year and may meet more often at the call of the chairman.

(6) Personnel of the department of education assigned to the gifted and talented program shall serve as staff to the council. The superintendent of public instruction may contract for additional consultation and technical expertise outside the department of education as needed.

(7) All operating expenditures of the council shall be approved by the state board of education and paid through funds budgeted to the gifted and talented education program. Members shall be reimbursed for actual expenses for attendance at council meetings and for other actual expenses incurred in carrying out their official duties.

(8) The advisory council for gifted education shall support the provisions of KRS 158.600 to 158.620. The powers and duties of the advisory council shall be to:

(a) Define the goals and objectives for the instruction of gifted and talented students in the Commonwealth;

(b) Define the student populations who would benefit by the instruction of a gifted and talented program;

(c) [~~Set priorities for student populations who are most in need of instruction, if funding does not permit total service;~~

~~(d)~~] Define, and monitor the implementation of, the identification criteria and methods which will best delineate students who are to participate in the program from the rest of the elementary and secondary student population;

(d)[~~(e)~~] Determine through a research program the [~~experimental~~] program *components* [~~approaches~~] most effective in attaining the goals and objectives stated by the council and the program's which are most cost-efficient for Kentucky's schools;

[~~(f) Determine the methods by which this research program shall be achieved by the department of education;~~]

(e)[~~(g)~~] Determine the cost of the various gifted and talented instructional services [~~and the best fund allocation method to be used in funding the program~~];

(f)[~~(h)~~] Design, and monitor the implementation of, a statewide plan which integrates the advisory council's recommendations into local school district's programs; *and*

(g)[~~(i)~~] Monitor the implementation of *an* [~~a monitoring and~~] ongoing evaluation system. *This system shall be* [~~to be~~] developed by the department of education and approved by the council *to ensure* [~~which will assure~~] implementation of successful program components[~~; and~~

~~(j) Recommend to the state board of education and the superintendent of public instruction program grant allotments for approval, including the maximum amount of grants and the amount of each grant based on program approach, number and type of students in the proposed program, grades served and prior years' evaluation results~~].

(9) The advisory council shall report its activities to the state board of education by way of its meeting minutes and shall adopt a workplan within the first six (6) weeks of its operations; report quarterly to the state board, the governor and the legislative research commission, concerning its scheduled progress; submit an annual written report to the state board of education, the governor and the legislative research commission; and submit a final written report to the general assembly at the end of each biennium which shall include, but not be limited to, all areas of discovery and monitoring as outlined in subsection (8) of this section.

Section 4. KRS 158.610 is amended to read as follows:

[~~(1) It is the intent of the general assembly in enacting this legislation to permit the state board of education, upon recommendation of the advisory council for gifted and talented education to the superintendent of public instruction and the state board of education, to authorize a local board of education to submit applications to operate a program for gifted and talented students in the event that units for gifted and talented programs as provided for in KRS 157.360 are not included in the executive budget.~~

~~(2)~~] The state board of education, upon recommendation of the advisory council for gifted and talented education to the superintendent of public instruction and the state board of education, shall adopt regulations relating to requirements to be met by local school districts to implement gifted and talented classroom unit programs according to the provisions of KRS 158.600 to 158.620 and 157.360 for their proper administration, including but not limited to, eligibility and admission of pupils, curriculum, class size limitations, teacher qualifications and program evaluation [~~or when applying for funds to operate an experimental gifted and talented students' program~~].

[~~(3) The state board of education, upon recommendation of the advisory council for gifted and talented education to the superintendent of public instruction and the state board of education, shall determine annually which of the applications submitted shall be funded for the following year in the event gifted and talented program units are not included in the executive budget.~~]

Section 5. The following KRS sections are repealed:

158.615 Reimbursement for experimental programs.

158.617 Inservice training.

HB 27, AN ACT relating to preschool education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the general assembly to encourage home instruction for economically disadvantaged preschool children in order to increase their opportunity for school success and for becoming productive citizens of the Commonwealth.

(2) There is hereby established the preschool home instruction program to be administered by the state board of education. Local school districts and public institutions of higher education shall be eligible to apply for funds. The state board of education shall set the criteria for grant awards and application procedures and shall select the proposals to be funded.

(3) The application shall include the following:

(a) A procedure for the identification and recruitment of eligible preschoolers;

(b) Qualifications and training for tutors;

(c) A description of a program appropriate for disadvantaged preschoolers including a parent training component;

(d) A budget; and

(e) A procedure for program evaluation.

The Committee Amendment No. 1 to **HB 27** is as follows:

Amend printed copy of **HB 27** on page 2, after line 2, by adding the following:

"Section 2. To carry out the purposes of this Act, there is appropriated to the Department of Education out of the General Fund in the State Treasury the sum of $250,000 in fiscal year 1988-89 and $250,000 in fiscal year 1989-90."

The Committee Title Amendment to **HB 27** is as follows:

Amend printed copy of **HB 27**, title, by adding after the word "education" the following:

"and making an appropriation therefor"

HB 71, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.720 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; Provided, however, That any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, [~~or reaches the age of 65,~~] or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.720 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employe, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator, or who holds a position in which he evaluates or supervises board employes or recommends personnel for employment or discharge. The term "administrator" shall also include those assistant, associate or deputy superintendents who do not fall within

the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

HB 74, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 156.611 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 AND AMENDED TO READ AS FOLLOWS:

(1) *There are critical shortages of teachers in the mathematics and science fields in grades seven (7) through twelve (12). It is the intention of the general assembly to attract and retain qualified teachers to those fields by awarding incentive scholarships to persons declaring an intention to serve in the mathematics and science fields. Eligible teachers must be willing to earn a major or area of concentration in mathematics, biology, chemistry, earth science, physics, mathematics-physical sciences, natural sciences, or geology.* [~~The teaching fields of mathematics and science, staffed with teachers having a major or area of concentration in mathematics, biology, chemistry, earth science, physics, mathematics-physical sciences, natural sciences, or geology, are fields in which there exist critical shortages of teachers in grades seven (7) through twelve (12). It is hereby declared to be the intention of the general assembly to attract and retain qualified teachers to those fields by awarding incentive scholarships to persons declaring an intention to serve in such teaching fields and who actually render service to the Commonwealth in such fields while possessing a regular teaching certificate with an appropriate major or area of concentration.~~]

(2) To the extent of appropriations available, persons enrolled at institutions of higher education *and admitted to an* approved [~~by the state board of education to offer teacher education programs, who have been admitted to a~~] teacher education program leading to a major or area of concentration as set forth in subsection (1) of this section, shall be eligible for student loans to be applied to the costs of their college education. *Certified* persons [~~already certified, but~~] who do not possess an appropriate major or area of concentration as set forth in subsection (1) of this section shall also qualify for *the* [~~such~~] loans to obtain appropriate summer school credits at approved institutions.

(3) A student initially receiving a loan during his sophomore year shall be eligible for a maximum of three (3) annual loans. A junior establishing initial eligibility shall be eligible for a maximum of two (2) loans, and a senior shall be eligible for one (1) loan. Certified teachers attending summer school shall be eligible for loans for a maximum of three (3) summer school sessions.

(4) The maximum annual loan shall be set by the Kentucky higher education assistance authority at an amount not to exceed the average cost of room, board, tuition, and fees at the state-supported colleges and universities, except that a summer school loan shall equal one-third (1/3) of such amount for each summer school session attended.

(5) The loans of persons who actually render service as certified teachers in the Commonwealth for a major portion of the school day in the critical shortage fields recognized in subsection (1) of this section, for at least seventy (70) school days during each of six (6) school semesters immediately after obtaining an appropriate major or area of concentration, shall be converted to interest free scholarships. Conversion shall be based on two (2) semesters of service for each year a loan was received. One (1) semester of service is required for each loan for summer school attendance.

(6) Persons failing to complete an appropriate program of studies shall immediately become liable to the authority for the sum of all outstanding loans, except in the case of a deferral of debt for cause by the authority, after which period of deferral studies will be resumed. Persons failing to meet teaching requirements in any required semester shall immediately become liable to the authority for one-half (1/2) the amount of the corresponding loan received, except in the case of persons receiving loans for summer school attendance, who shall become liable for the amount of the loan applicable to a single summer school session, and except in the case of a deferral of debt for cause by the authority, after which period of deferral teaching duties required hereunder will be resumed. Persons liable for repayment of loans shall also be liable for interest for the entire period of the loan at a rate to be determined at the time the loan is granted.

(7) Any statutes to the contrary notwithstanding, a loan made pursuant to this section shall not be voidable by reason of the age of the borrower at the time of receiving the loan.

(8) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All loans and interest repaid to the Kentucky higher education assistance authority hereunder shall be added to the appropriations made for purposes of this section, and said appropriations shall not lapse.

(10) The authority shall promulgate regulations for administering this section. The authority shall execute appropriate contracts and promissory notes with loan recipients, and the authority may contract with any other appropriate organization or unit of government for the administration of this section.

(11) If insufficient funds are available for requested loans to qualified persons during any fiscal year, the authority shall make pro rata reductions in the loans made to qualifying applicants. Priority consideration shall be given to persons receiving previous loans and participating in the program. [~~A local school district superintendent, who by statute is a state officer, shall not serve as a director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit.~~]

SECTION 2. KRS 156.613 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 AS FOLLOWS:

(1) It is the intent of the General Assembly to attract and encourage the most academically talented students to become teachers and render service in the public schools of the Commonwealth.

(2) Persons ranking academically in the top ten percent (10%) of their high school graduating class, or scoring at or above the eightieth (80th) percentile on a test required for admission to the Commonwealth's public institutions of higher education and designated by the state board of education, and who choose to enter the teaching profession shall be eligible to apply for a loan to be used toward the costs of their college education. Loan recipients must agree to teach one (1) year in the public schools of the Commonwealth as repayment for each one (1) year loan received. Recipients who fail to qualify as teachers or who choose to void the contractual arrangement will be required to repay the loan with interest on the unpaid balance.

(3) All loans and interest shall be repaid to the Kentucky higher education assistance authority and the receipts shall be used for purposes of this section. Such funds and unobligated appropriations shall not lapse but shall be used for purposes of this section.

(4) The Kentucky higher education assistance authority shall promulgate regulations for administering this section, including the establishment of the maximum loan per student per year and the interest rate to be charged on loans where the contract has been voided. The authority shall execute appropriate contracts and promissory notes with loan recipients.

Section 3. KRS 160.350 is amended to read as follows:

(1) Each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. *Therefore* the board may [~~thereafter~~] appoint a superintendent for a new term as provided *in this subsection, which* [~~herein and such term~~] shall begin *on* [~~as of~~] the date of the superintendent's appointment, except when the vacancy occurs *after* [~~during the time between~~] a school board election and *before* [~~when~~] the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. [~~The board shall fix the salary of the superintendent at not less than $1,200 per annum, to be paid in monthly instalments.~~] In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. *The board shall set the salary of the superintendent to be paid in regular installments.*

(2) Before any superintendent assumes his duties he shall present to the board of education that elected him a statement signed by the superintendent of public instruction that he has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been elected, and he shall hold such certificate throughout the period of his employment. *A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit.*

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education. Written notice setting out the charges for removal shall be spread on the minutes of the board and given the superintendent fifteen (15) days before action is taken on his removal.

HB 75. AN ACT relating to student loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 164.755 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 164A AND AMENDED TO READ AS FOLLOWS:

(1) As used in this section, the term "eligible borrower" shall mean a student, and the parent of a dependent student, *who demonstrates an intention and capacity to repay the loan. The student shall be* [~~when such student is~~] a Kentucky resident enrolled or accepted for enrollment, on at least a half-time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma other than theology, divinity, or religious education[~~; who demonstrates an intention and capacity to repay the loan~~].

(2) In addition to the authority granted by KRS 164A.010 to 164A.230, [~~inclusive,~~] the corporation is authorized to establish, finance and operate such educational loan programs as the higher education assistance authority shall deem necessary in order to make available additional educational loans, [~~(~~]which shall not be insured student loans as that term is defined by KRS 164A.020[~~)~~] to meet the financial needs of eligible borrowers. The corporation may, in connection with *the* [~~any such~~] program [~~or programs~~], enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders and eligible institutions. *The* [~~Such~~] educational loan programs may provide for either the making of educational loans directly to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.

(3) The corporation may promulgate *necessary* [~~such~~] rules and regulations as shall be [~~reasonably~~] required to administer any such program on a financially sound basis, including the requiring of guarantees, cosigning by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances.

(4) The corporation may finance *the* [~~any such~~] educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of *the* [~~such~~] bonds may be used for *the* [~~such~~] educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. *The* [~~Any such~~] bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(5) No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the governor and the legislative research commission that *the* [~~such~~] loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the governor and legislative research commission shall consider the availability of other student assistance resources.

(6) The maximum annual loan amount shall not exceed the costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution, or a lesser amount established by the board. The loan proceeds shall be used by the eligible borrower solely for those costs of attendance.

(7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.

(8) The higher education assistance authority shall provide *the* [~~such~~] services as the corporation may require to efficiently carry out the purposes of this section.

HB 180, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a council on higher education in Kentucky[~~,~~] to be composed of the superintendent of public instruction[~~,~~] and seventeen (17) lay members appointed by the governor. *The lay members shall include*[~~,~~] one (1) from each congressional district *and ten (10)*[~~, eight (8)~~] from the state at large *including* [~~which shall include~~] a student member. *The student member*[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be *selected* [~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the governor one (1) nominee, *and*[~~;~~] from this list of nominees, the governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the governor~~]. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. Whenever a lay member's term expires after July 15, 1982, the member appointed by the governor to fill the vacancy shall be appointed for a four (4) year term in the same manner as the initial appointment. Any person, other than the superintendent of public instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The council on higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the council on higher education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas

shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the governor, the legislature, the council on higher education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the council on higher education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the department of finance.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease

to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Develop in conjunction with each state institution of higher education a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation shall include, but not be limited to information concerning the respective institution's mission, budget, plans, policies, strengths, weaknesses, and meetings with faculty, students, administrators, and other board members.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the governor's higher education selection committee which shall consist of seven (7) members representing each of the Supreme Court districts.

(2) In selecting the members of the committee the governor shall solicit recommendations from each of the following:

(a) Advisory conference of presidents;

(b) Kentucky chapter of the American association of university professors;

(c) Council on higher education student advisory council;

(d) Prichard committee for academic excellence;

(e) Kentucky municipal league;

(f) Kentucky association of counties;

(g) Kentucky chamber of commerce; and

(h) State board of education.

(3) Members of the committee shall serve four (4) year terms, except the initial appointments shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) Two (2) members shall serve a two (2) year term;

(c) Two (2) members shall serve a three (3) year term; and

(d) Two (2) members shall serve a four (4) year term.

The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the governor's office.

(5) Beginning January 1, 1989 the committee shall be responsible for submitting three (3) nominations to the governor for each gubernatorial appointment to a university governing board made pursuant to KRS 164.130, 164.320, and 164.820 and to the council on higher education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments provided for by statute. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following

an unforeseen board vacancy. In making its nominations, the committee shall assess the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.

(6) The governor's office staff shall provide support services for the committee.

The Committee Substitute to **HB 180** is as follows:

HB 180, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.010 is amended to read as follows:

There shall be a council on higher education in Kentucky[~~,~~] to be composed of the superintendent of public instruction[~~,~~] and seventeen (17) lay members appointed by the governor. *The lay members shall include*[~~,~~] one (1) from each congressional district *and ten (10)*[~~, eight (8)~~] from the state at large *including* [~~which shall include~~] a student member. *The student member*[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be *selected* [~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the governor one (1) nominee, *and*[~~;~~] from this list of nominees, the governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. Whenever a lay member's term expires after July 15, 1982, the member appointed by the governor to fill the vacancy shall be appointed for a four (4) year term in the same manner as the initial appointment. Any person, other than the superintendent of public instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The council on higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the council on higher education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the governor, the legislature, the council on higher education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the council on higher education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the department of finance.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual

arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Assist each state institution of higher education in developing a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation shall include, but not be limited to information concerning the respective institution's mission, budget, plans, policies, strengths, weaknesses, and meetings with faculty, students, administrators, and other board members.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the governor's higher education selection committee which shall consist of seven (7) members representing each of the Supreme Court districts.

(2) In selecting the members of the committee the governor shall solicit recommendations from each of the following:

(a) Advisory conference of presidents;

(b) Council on higher education student advisory council;

(c) Associations representing faculty from universities and community colleges;

(d) Associations representing university and community college alumni;

(e) Higher education advocacy groups;

(f) The state board of education; and

(g) Associations representing business and civic interests.

(3) Members of the committee shall serve four (4) year terms, except the initial appointments shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) Two (2) members shall serve a two (2) year term;

(c) Two (2) members shall serve a three (3) year term; and

(d) Two (2) members shall serve a four (4) year term.

The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the governor's office.

(5) Beginning January 1, 1989 the committee shall be responsible for submitting three (3) nominations from which the governor shall select each gubernatorial appointment to a university governing board made pursuant

to KRS 164.130, 164.320, and 164.820 and to the council on higher education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments provided for by statute. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The governor shall make the appointment within thirty (30) days following receipt of the nominations.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.

(7) The governor's office staff shall provide support services for the committee.

HB 218, AN ACT relating to teachers' aides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120:

(1) "Standard college or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the Kentucky department of education.

(2) "Standard college or university work of graduate grade" means academic preparation that extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a standard college or university accredited for the graduate level.

(3) "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(4) "*Teacher's aide* [~~Para-professional~~]" means an adult school employe who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his training and competency, certain instructional and non-instructional functions in the school program as are illustrated by, but not limited to, [:] clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, *and* preparing and organizing instructional materials and equipment.

[~~(5) "Teacher aide" shall be defined synonymously with para-professional.~~

~~(6) "Non-instructional teacher aide" means an adult school employe who works under the direct supervision of teaching staff in performing certain non-instructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a non-instructional period. Non-instructional teacher aides employed on a full-time basis shall possess skills necessary to perform the duties outlined in subsection (6) of this section as demonstrated by achieving a minimum score on a measurement instrument developed by the state board of education.~~]

Section 2. KRS 161.044 is amended to read as follows:

(1) The state board of education shall establish regulations governing the qualifications and the utilization of *teachers' aides* [~~adult paraprofessional personnel~~] and adult volunteer personnel in the common schools. All *teachers'* [~~teachers~~] aides working in kindergarten classes and all *instructional teachers'* [~~teacher~~] aides *initially* employed after July 1, 1986, except those with *current* teacher certification, shall be subject to the following requirements:

(a) A high school diploma or a high school equivalency certificate;

(b) A passing score on an achievement test. The content of the test and the minimum score shall be determined by the state board of education;

(c) Successful completion of an in-service training program established by the state board of education; and

(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers.

(2) *"Non-instructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing non-instructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a non-instructional period. Non-instructional teachers' aides employed on a full-time basis shall possess skills necessary to perform the duties outlined in this subsection as demonstrated by achieving a minimum score on a measurement instrument developed by the state board of education.*

(3) Within the *regulations* [~~provisions~~] established by the state board of education, local boards of education may employ *teachers' aides* [~~adult paraprofessional personnel~~] in supplementary instructional and non-instructional activities with pupils. While engaged in an assignment as authorized under the regulations, and as directed by the professional administrative and teaching staff, such personnel have the same legal status and protection as a certified teacher in the performance of the same or similar duties.

(4)[~~(3)~~] Local boards of education shall give preference to applicants for the position of *teacher's* [~~teachers~~] aide [~~or paraprofessional~~] who have regular or emergency teacher certification.

(5)[~~(4)~~] Within the provisions established by the state board of education, local boards of education may utilize adult volunteer personnel in supplementary instructional and non-instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.

(6) Pursuant to KRS 156.095 all teachers who have teachers' aides under their direct supervision shall receive in-service training as specified by the state board of education on the effective utilization and evaluation of teachers' aides.

Calendar

HB 15, **HB 25**, **HB 43**, and **HR 2** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the house recess for ten minutes for a meeting of Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon Resolutions **HR 19, HR 20, HR 21**. Agreed.

Representative Stumbo moved the adoption of the following **HR 19**.

HR 19. A RESOLUTION amending Rule 47 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 47 of the Rules of the House of Representatives be amended to read as follows:

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. *The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill* [~~Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session~~].

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

HR 19 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 20**.

HR 20, A RESOLUTION amending Rule 58 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 58 of the Rules of the House of Representatives be amended to read as follows:

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) *Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote* [~~The vote on the Consent Orders shall be taken by use of the Electrical Voting System~~].

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

HR 20 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 21**.

HR 21, A RESOLUTION amending Rule 73 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 73 of the Rules of the House of Representatives be amended to read as follows:

Rule 73. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employe of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employe. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

HR 21 was adopted by voice vote.

Representative Stumbo moved to suspend the rules for Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions

HB 363, by Representatives Seum and Priddy: AN ACT relating to custody of children.

HB 364, by Representatives White and Robinson: AN ACT relating to the teachers retirement system.

HB 365, by Representatives Ford, Maggard and Napier: AN ACT relating to education.

HB 366, by Representatives Ford, Noland and J. Harper: AN ACT relating to motor vehicles warranty service.

HB 367, by Representatives B. Smith, B. Richardson, Turner, Todd, Altman, Cline, Lyne, P. Richardson, Gregory, Farrow, Gedling, Ark, McElroy, Richards, Castleman and Curd: AN ACT relating to the regulation of water districts.

HB 368, by Representatives Richards and B. Smith: AN ACT relating to alcoholic beverage control.

Report of Committees

The Committee on Rules reported **HB 15**, **HB 25**, **HB 43** and **HR 2** have been posted for passage in Orders of the Day, January 13, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **HB 195**, **HB 202**, **HB 237**, **HB 313**, **HB 316**, **HB 337**.

Report of Committees

The Committee on Judiciary-Civil reported **HB 41**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to public nuisances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 233.010 is amended to read as follows:

For the purposes of this Act, unless the context otherwise requires: [~~As used in this chapter,~~]

(1) "Public nuisance" means any building, erection or other place used for the purpose of maintaining a house of prostitution or the distribution of obscene matter.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statute or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials. "Matter" does not include any newspaper, magazine, or other publication entered as second class matter in the United States mail.

(3) "Obscene" means:

(a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and

(b) The matter depicts or describes the sexual conduct in a patently offensive way; and

(c) The matter as a whole, lacks serious literary, artistic, political, or scientific value.

(4) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

(5) "Distribution" means the possession, preparation, publishing, printing, exhibition, distributing, and offers to distribute of any obscene matter.

(6) "House of prostitution" means any building, erection or other place used for the purpose of lewdness, assignation or prostitution. It includes the ground upon which the building stands, and all *furniture, fixtures, musical instruments and other* improvements upon that ground.

(7) "Maintain" means to erect, establish, maintain, continue, own, occupy, lease, or sublease a house of

prostitution.

SECTION 2. A NEW SECTION OF KRS CHAPTER 233 IS CREATED TO READ AS FOLLOWS:

Any person who maintains a house of prostitution or engages in the distribution of obscene matter shall be guilty of a public nuisance, and the house of prostitution or obscene matter shall be enjoined and abated as provided by this chapter.

Section 3. KRS 233.030 is amended to read as follows:

The commonwealth's attorney or county attorney *shall*, or any *resident* [~~citizen~~] of the county in which the *public nuisance exists* [~~house of prostitution is located~~], may *obtain injunctive relief to enjoin and abate the public nuisance according to the manner and procedure established in the Kentucky Rules of Civil Procedure* [~~maintain an action in equity in the name of the state, upon the relation of the commonwealth's attorney, county attorney or citizen, to perpetually enjoin the house of prostitution, the person conducting or maintaining it and the owner or agent of the building or ground upon which it is located~~].

Section 4. KRS 233.060 is amended to read as follows:

Evidence of the general reputation of a house of prostitution *or persons engaged in the distribution of obscene matter* shall be admissible for the purpose of proving *the* [~~its~~] existence *of* [~~as~~] a *public* nuisance.

Section 5. KRS 233.100 is amended to read as follows:

(1) If the existence of a *public nuisance* [~~house of prostitution~~] is established *by the court*, an order of abatement shall be entered as a part of the judgment *enjoining the public nuisance.* That order shall direct the *seizure* [~~removal from the house of prostitution~~] of all fixtures, furniture, musical instruments or other movable property used *to maintain a* [~~in conducting the~~] house of prostitution *or utilized in the distribution of obscene matter. The order shall direct* [~~,~~] the *disposition* [~~sale~~] of *seized property* [~~them~~] in the manner provided for *in KRS 500.090* [~~the sale of chattels under execution~~], the effectual closing of the premises against their use for any *similar* purpose, and keeping them closed for a period of one (1) year, unless sooner released.

(2) The sheriff shall be allowed for sales under this section the same fees as allowed by KRS 64.090 for sales under execution. For all other services under this section the sheriff shall be allowed a reasonable fee by the court to be taxed as part of the costs in the action.

Section 6. KRS 233.110 is amended to read as follows:

Proceeds *from* [~~of~~] the *disposition* [~~sale~~] of [~~the~~] personal property *pursuant to* [~~, as provided in~~] KRS 233.100, shall be applied in the payment of the costs of the action and abatement, *reasonable attorney's fees incurred by a private person bringing an action under this chapter*, and the balance, if any, shall be paid to the defendant.

Section 7. KRS 233.120 is amended to read as follows:

If the owner, agent or lessee of *real or personal property* [~~premises~~] against which an injunction has been issued, appears in court, pays all costs of the proceeding and files a bond, with surety approved by the clerk and qualified as required by KRS 454.185, in the full value of the *real or personal property* [~~premises~~] as ascertained by the court, conditioned that he will immediately abate the *public nuisance* [~~house of prostitution~~] and prevent it from being established or kept within a period of one (1) year, the court may, if satisfied of his good faith, order the *real or personal property* [~~premises~~] released to the owner, agent or lessee and the order of abatement canceled so far as it relates to the *property released* [~~premises~~]. If the bond is given and costs are paid before judgment and the order of abatement, the action shall be terminated as to those *property released* [~~premises~~]. The *property released* [~~release of the premises~~] under this section shall not release it from any other judgment, lien or liability, to which it may be subject. *This section shall not apply to matter determined by the court to be obscene.*

Section 8. KRS 233.130 is amended to read as follows:

The costs of an action to abate a *public nuisance* [~~house~~ ~~of~~ ~~prostitution~~] shall constitute a lien upon the *property released* [~~premises~~] and the judgment shall provide for the enforcement of that lien, but any personal property seized under KRS 233.100 shall be sold first and the proceeds applied to the payment of those costs before the realty is sold.

SECTION 9. A NEW SECTION OF KRS CHAPTER 233 IS CREATED TO READ AS FOLLOWS:

Any person found guilty of violating an injunction or order of abatement within the boundaries of this Commonwealth shall be subject to punishment for contempt and forfeiture of injunction bond as provided for in the Kentucky Rules of Civil Procedure. Enforcement of an injunction or order of abatement may be had in the circuit court of the county in which the public nuisance was found to exist or in the circuit court of the county in which the injunction or order of abatement is violated.

Section 10. The following KRS sections are repealed:

233.020 House of prostitution a nuisance — To be enjoined and abated.

233.040 Injunction proceedings to be instituted against persons convicted of keeping house of prostitution.

233.050 Temporary injunction granted if house of prostitution shown to exist.

233.070 Witnesses for relator may be granted immunity from prosecution.

233.080 Dismissal of action — Costs if action groundless.

233.090 Injunction not to issue if owner tries to prevent nuisance.

233.140 Relator's attorney allowed fee.

233.150 Violation of injunction or order — Trial for.

233.990 Penalties.

The Committee Amendment No. 1 to **HB 41** is as follows:

Amend printed copy of **HB 41** on page 3, line 4 delete the word "*shall*"

The Committee on Transportation reported **HB 40** and **HB 64** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to traffic laws.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.370 is amended to read as follows:

(1) Whenever any school bus or church bus used in the transportation of children *or any van or bus used in the transportation of senior citizens* is stopped upon a highway for the purpose of receiving or discharging passengers, the operator of a vehicle approaching from any direction shall bring his vehicle to a complete stop and shall not start up or attempt to pass until the bus has completed receiving or discharging passengers and has been put into motion; provided, that this stop requirement shall not apply to vehicles proceeding in the opposite direction from a church *bus,* [~~or~~] school bus, *or senior citizens' bus* which is stopped upon a multi-lane highway of four (4) or more lanes.

(2) Subsection (1) of this section shall be applicable only in the event the bus bears on the front and rear a plainly visible sign containing the words "School Bus," or "Church Bus[~~,~~]" *or Senior Citizens' Bus,*

whichever is appropriate, in letters not less than six (6) inches in height, which can be covered when the vehicle is not in use as a school, [~~or~~] church *or senior citizens'* bus.

Section 2. KRS 189.375 is amended to read as follows:

No school bus *or senior citizens' bus* shall be licensed or operated for the transportation of *passengers* [~~school children~~] unless it has a folding sign on the driver's side thereof with letters at least six (6) inches in height displaying the word "stop" on both sides. Before stopping *a* [~~the~~] school bus *or senior citizens' bus* and while loading or discharging *passengers* [~~school children~~] the driver shall open out the sign so that it will be plainly visible to traffic approaching from both directions. No driver shall stop a school bus *or senior citizens' bus* for loading or unloading purposes in a no passing area such as a hill or curve which does not afford reasonable visibility to approaching motor vehicles from both directions. No driver shall stop a school bus *or senior citizens' bus* or church bus and allow it to remain standing for the purpose of receiving passengers from or discharging passengers to the opposite side of the road on a multi-lane highway of four (4) or more lanes; provided, that this provision does not prohibit the discharging of passengers who desire to cross the highway at a marked pedestrian crossing after the bus has proceeded.

HB 64, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5), and for each sidecar attachment, three dollars ($3).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, *or anywhere within the county if it is a city contained in a joint urban county,* shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks

or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

The Committee Amendment No. 1 to **HB 64** is as follows:

Amend printed copy of **HB 64** on page 5, line 17 after the word "*within*" by deleting the rest of line 17 in its entirety and inserting "*a county containing an urban county government*" in lieu thereof;

and on page 5, line 18 before the word "shall" by deleting all the underlined material.

The Committee on Transportation reported **HB 62** and **HB 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 62, AN ACT relating to temporary license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the transportation cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) A person moving a mobile home from one (1) location to another and who has obtained a special permit to do so in accordance with KRS 189.270, may apply to the transportation cabinet for a temporary registration and temporary registration plate for the mobile home. The registration shall be valid for fifteen (15) days. The cost shall be one dollar ($1).

HB 66, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.025, Permit required for installation of television set in motor vehicle, is repealed.

Motions, Petitions and Communications

Representative Ackerson moved that he be added as co-sponsor to **HB 307**. Agreed.

Representative McBee moved that **HB 325** be reassigned to the Committee on Judiciary-Civil. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 20**, Representatives Freibert and Meyer; **HB 22**, Representative Lile; **HB 26**, Representative A. Jones; **HB 32**, Representative Noland; **HB 50**, Representative Keith; **HB 86**, Representative Donnermeyer; **HB 176**, Representatives J. Brown, Cline, Moberly, Robinson and Will; **HB 188**, Representatives Ford, Noland, B. Smith and Todd; **HB 221**, Representatives Altman and Strong; **HB 222**, Representatives Altman and Jackson; **HB 248**, Representative Gregory; **HB 249**, Representative Gregory; **HB 307**, Representative Morris; **HB 310**, Representative Altman; **HB 360**, Representative Gregory; **HB 361**, Representative Keith; **HB 365**, Representative Altman; and **HB 366**, Representative Altman.

Representative Stumbo moved that when the House adjourns this day, it do so by voice vote. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 12**, by Representative T. Jones:

Amend printed copy of **HB 12** on page 7, line 16, after the first ".", delete all language through the first "." on line 4 of page 8.

Floor Amendment No. 1 to **HB 307**, by Representative Noland:

Amend printed copy of **HB 307** on page 1, line 3 after "*officer*" by adding ", *volunteer*"

Appropriations and Revenue will meet at 10:00 a.m. January 13 in Room 109.

Counties and Special Districts will meet at 8:30 a.m. January 13.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, January 13, 1988.

The motion that the House adjourn was adopted by voice vote.

WEDNESDAY, JANUARY 13, 1988

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Joe Adams, Chaplain to Kentucky State Government, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Hatcher.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 12, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 54**.

Introduction of Bills and Resolutions

HB 369, by Representatives Lundergan and M. Brown: AN ACT relating to the construction of local detention space.

HB 370, by Representatives Lundergan, Gregory, Little, Jackson, M. Brown, Callahan, Blevins, J. Brown, Cline, B. Smith, Morris, Ford, Strong, Todd, Worthington, Rapier, Stumbo, Bronger, Preston, Seum, Gray, Arnold, Moberly, Turner, Johnson, Richards, Cyrus and Lyne: AN ACT relating to local corrections reform.

HB 371, by Representatives Barrows, Hancock, Farrow, Crupper, T. Jones, Long, Moberly and Stumbo: AN ACT relating to retirement.

HB 372, by Representative Will: AN ACT relating to election officers.

HB 373, by Representative Will: AN ACT relating to child day-care centers.

HB 374, by Representative Mack: AN ACT relating to compulsory school attendance.

HB 375, by Representative Mack: AN ACT relating to long-term care facilities.

HB 376, by Representative Nett: AN ACT relating to campaign finance limitations.

HB 377, by Representatives Callahan, Meyer, Kerr, Mack, Long, Rapier, Walker, Nett, Donnermeyer, Gregory, Lear, K. Harper, Lundergan and Hourigan: AN ACT relating to non-elected city officers.

HB 378, by Representatives Callahan and Kerr: AN ACT relating to motor vehicle license plates.

HB 379, by Representative Reinhardt: AN ACT relating to inmate eligibility for prison industries jobs.

HB 380, by Representative Kerr: AN ACT relating to income taxes.

HB 381, by Representative Burch: AN ACT relating to the aid to families with dependent children program minimum subsistence needs level and making an appropriation therefor.

HB 382, by Representative Burch: AN ACT relating to the aid to families with dependent children program and making an appropriation therefor.

HB 383, by Representative Burch: AN ACT relating to public assistance.

HB 384, by Representative Burch: AN ACT relating to public assistance and making an appropriation therefor.

HB 385, by Representative Burch: AN ACT relating to public assistance and making an appropriation therefor.

HB 386, by Representative Heleringer: AN ACT relating to dissolution of marriage.

HR 25, by Representative Heleringer: A RESOLUTION honoring Shawn Gish, Eagle Scout Award recipient.

HR 26, by Representatives Heleringer and Yates: A RESOLUTION adjourning the House of Representatives in honor and memory of Representative Charles Joseph Jones Sr.

HJR 27, by Representatives Meyer and Callahan: A JOINT RESOLUTION directing the Secretary of Transportation to name the connector road between Kentucky Routes 16 and 17 after Mr. Howard Litzler.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 361**.

Business Organizations and Professions: **HB 368**.

Counties and Special Districts: **HB 367**.

Education: **HB 364**, **HB 365**.

Health and Welfare: **HB 362**.

Judiciary-Civil: **HB 363**.

State Government: **SB 18**, **SB 24**, **SB 25**, **SB 29**, **SB 30**.

Transportation: **HB 366**.

Posting of Bills for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: **HB 222**.

Agriculture and Small Business: **HB 196**.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 11** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar

HB 11, AN ACT relating to capital construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.750 to 45.800:

(a) "Committee" means the capital construction and equipment purchase oversight committee.

(b) "Capital construction" includes:

1. The construction, reconstruction, *acquisition*, and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition of land for the construction or reconstruction of a building or for the installation of utility services;

4. The purchase and installation initially of equipment, facilities and furnishings of a permanent nature for buildings;

5. *The acquisition of any building to be occupied by any subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020, and any institution of higher education;*

6. The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and

7.[~~6.~~] Major items of equipment, to include aircraft, estimated to cost fifty thousand dollars ($50,000) or more.

(c) "Capital construction project" means any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, and "major item of movable equipment," estimated to cost fifty thousand dollars ($50,000) or more, *regardless of the source of funds.*

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance or replacement project" means the maintenance, repair or reconstruction of a capital construction project or the maintenance, repair or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or

2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(g) "Capital construction funds" means any funds used for capital construction, including but not limited to appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source

held by an agency for management or investment purposes.

(2) KRS 45.750 to 45.800 shall apply to capital construction projects and the purchase of major items of equipment for use by the state government or one of its departments or agencies, *as defined in KRS 12.010 or enumerated in KRS 12.020,* including institutions of higher education, but excluding capital construction projects or equipment purchases used directly in the construction or maintenance of roads, including but not limited to bulldozers, graders, earth movers, and real estate purchased for rights-of-way. KRS 45.750 to 45.800 shall not apply to political subdivisions, *except for those defined in KRS 12.010 or enumerated in KRS 12.020.*

The Committee on Counties and Special Districts reported **HB 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 34, AN ACT relating to counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution and statutes of this state now or hereafter enacted.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.

(8) *(a)* The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. *These powers, other than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint ownership of property or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to insure that benefits among the participating governments are relative to costs among them. If the personnel or equipment of one (1) government is provided for a second government, the second government shall fully compensate the first through the reciprocal provision of services or through monetary compensation.*

(b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

The Committee on Counties and Special Districts reported **HB 198** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 198, AN ACT relating to county license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.075 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120, and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at such percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional, policing regulatory or administrative expenses related to the sale of alcoholic beverage in the city. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

(2) Notwithstanding the provisions of KRS 243.060, the fiscal court of any county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each fiscal year at such percentage rate as shall be reasonably estimated to fully reimburse the county for, but not exceed, the estimated costs of policing, regulation or administration related to the sale of alcoholic beverages in the county. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed for the same year by the county pursuant to KRS 243.060, or by any city pursuant to KRS 243.070 or subsection (1) of this section.

Section 2. KRS 243.600 is amended to read as follows:

(1) The clerk of a county whose fiscal court has imposed license fees under KRS 243.060 *or 243.075* shall immediately notify the board of the amount of the fees fixed. The county licenses shall be issued and the fees collected by the county clerk, who may charge a fee of fifty cents (50) for his services for each license issued. *The clerk may also charge a commission of one percent (1%) of any fees collected pursuant to KRS 243.075(2).* The county clerk shall report and pay to the county treasurer at the end of each month such fees as he has collected. No license shall be issued without the approval of the county administrator, if there is one in the county. The licenses shall be issued in such form as may be prescribed by the county administrator, if there is one in the county, or by the board, if there is no county administrator.

(2) If any part of this section is held invalid, all of this section and of KRS 243.060 shall also be considered invalid.

Calendar

HB 12, HB 22, HB 27, HB 40, HB 41, HB 64, HB 71, HB 74, HB 75, HB 180, HB 218, HB 307 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 62 and **HB 66** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 43 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 43** be passed.

On the roll call the vote was: Yeas 80, Nays 16. (See January 13, 1988, roll call on **HB 43** - Appendix A.)

HB 43 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 43** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HR 2** be passed.

HR 2 was adopted by voice vote.

HB 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 15** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See January 13, 1988, roll call on **HB 15** - Appendix

A.)

HB 15 was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 15** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 25** be passed.

On the roll call the vote was: Yeas 82, Nays 13. (See January 13, 1988, roll call on **HB 25** - Appendix A.)

HB 25 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 25** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the house recess for ten minutes for a meeting of Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Posting. Agreed.

Introduction of Bills and Resolutions

HB 387, by Representatives J. Harper, Allen, Noland, Lile, Lefevers, Keith, Turner, K. Harper, Strong, Freibert and Hoover: AN ACT relating to election campaign financing.

HB 388, by Representatives J. Harper, Allen, Keith, Lile, Lefevers, Turner, K. Harper, Strong, Freibert and Hoover: AN ACT relating to election bribery.

HB 389, by Representatives J. Harper, Allen, Noland, Keith, K. Harper, Turner and Hoover: AN ACT relating to elections.

HB 390, by Representatives Clarke, Long, Freibert and Priddy: AN ACT relating to law enforcement and fire fighter foundation program funds.

HB 391, by Representatives Noland and L. Clark: AN ACT relating to sheriffs.

HB 392, by Representative Seum: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 393, by Representative Riner: AN ACT relating to investments.

HB 394, by Representatives Todd and Turner: AN ACT relating to hunting and fishing.

HB 395, by Representative Freibert: AN ACT relating to revenue and taxation.

Report of Committees

The Committee on Rules reported **HB 12**, **HB 40**, **HB 41**, **HB 62**, **HB 64**, **HB 71**, **HB 74**, **HB 75** and **HB 218** have been posted for passage in Orders of the Day, January 14, 1988.

The Committee on Rules reported the following Bills have been recommitted.

Appropriations and Revenue; **HB 22**, **HB 27**.

The Committee on Rules reported **HB 180** and **HB 307** have been posted for passage in Orders of the Day, January 15, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Natural Resources and Environment: **HB 194**, **HB 206**.

Education: **HB 280**, **HB 292**, **HB 319**.

Judiciary-Criminal: **HB 328**, **HB 343**.

Appropriations and Revenue: **SB 16**.

Motions, Petitions and Communications

Representative Farrow moved that his name be withdrawn as co-sponsor of **HB 230**. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 25, Representative Casebier; **HB 39**, Representative Seum; **HB 49**, Representative Seum; **HB 61**, Representative Todd; **HB 176**, Representative Hourigan; **HB 247**, Representatives Bronger and Seum; **HB 249**, Representative Barrows; **HB 288**, Representative Altman; **HB 332**, Representative Casebier; **HB 333**, Representatives Casebier and Walker; **HB 372**, Representative Casebier; **HCR 6**, Representative Seum.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 1 to **HB 41**, by Representative Farrow:

Amend printed copy of **HB 41** as follows:

On page 3, line 4, delete "*shall*" and place a bracket before and strike through the comma at the end of the line;

On page 3, lines 5-6, delete lines 5-6 in their entirety and insert in lieu thereof "~~or any citizen of the county in which the house of prostitution is located,~~]";

On page 3, line 7, before "may" delete "~~located~~],"

On page 4, lines 19-21, delete the underlined language.

Natural Resources and Environment will meet at 1:00 p.m. January 14, 1988 in Room 104.

Agriculture and Small Business will meet at 9:00 a.m. January 14, 1988 in Room 103.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Thursday, January 14, 1988.

On the roll call the vote was yeas 79-Adams, Adkins, Allen, Altman, Ark, Arnold, Blandford, Blevins, J. Brown, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hoover, Hourigan, Jackson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Prichett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates. Nays-Deskins, LeMaster, Seum.

The motion to adjourn was adopted.

THURSDAY, JANUARY 14, 1988

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Dean Shifflett, Eastland Christian Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 13, 1988 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 396, by Representatives R. Smith and A. Jones: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 397, by Representatives A. Jones, R. Smith and Geveden: AN ACT relating to domestic relations.

HB 398, by Representative Meyer: AN ACT relating to cities participating in the county employes retirement system.

HB 399, by Representatives Nett, Heleringer, Clarke, Priddy, Gray, Will, Moberly and R. Smith: AN ACT providing for the taking of the sense of the people of the State as to the necessity an expediency of calling a convention for the purpose of revising or amending the Constitution of the Commonwealth, and such amendments as may have been made to same as provided by Section 258 of the present Constitution of Kentucky.

HB 400, by Representatives Nett, Kerr, Burch, Layman, Northup, Yates, L. Clark, Callahan, Bronger, J. Harper, Cyrus, Keith, Turner, Ackerson, Mack, Lefevers, Guenthner, Heleringer, White, Robinson, Casebier, Handy, Walker, Meyer, Will, Lundergan, K. Harper, Lile, Riner, Reinhardt, Gedling, P. Clark and Donnermeyer: AN ACT relating to crimes and punishments.

HB 401, by Representatives Will and Casebier: AN ACT relating to the public service commission.

HJR 28, by Representative Burch: A JOINT RESOLUTION directing the Secretary of the Commerce Cabinet to include within all economic development program plans and activities, a commitment to give service priority to the economically disadvantaged.

HJR 29, by Representative Worthington: A JOINT RESOLUTION establishing a tobacco museum in Mason County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 380, HB 390, HB 393, HB 395.**

Cities: **HB 377.**

Counties and Special Districts: **HB 391.**

Education: **HB 374.**

Health and Welfare: **HB 373, HB 375, HB 381, HB 382, HB 383, HB 384, HB 385.**

Judiciary-Civil: **HB 386.**

Judiciary-Criminal: **HB 392.**

Natural Resources and Environment: **SB 54, HB 394.**

State Government: **HB 369, HB 370, HB 371, HB 372, HB 376, HB 379, HB 387, HB 388, HB 389.**

Transportation: **HB 378, HJR 27.**

Report of Committees

The Committee on Cities reported **HB 31**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 31. AN ACT relating to city elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Election of city officers shall be governed by the provisions of KRS Chapters 116 to 121, except as provided in this Act.

(2) Dates on which primary and regular elections are to be held shall be governed by the provisions of KRS 118.025, except as provided in this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

(c) A candidate for city office in a partisan election shall be prohibited from being a registered party candidate during a primary election and if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination

papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which such papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (7), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filed, who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this Act, KRS Chapter 83A and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than sixty-eight (68) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election at which time the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment.

Section 3. KRS 83A.050 is amended to read as follows:

(1) [~~Except in cities of the second class which operate under the city manager form of government pursuant to KRS 83A.150,~~] Election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 121 unless the city legislative body prescribes by ordinance that election of city officers shall be under nonpartisan city election laws as provided in *this Act,* KRS 83A.170, *and 83A.175.* Such ordinance shall become effective not later than twenty-three (23) days prior to the date prescribed by the election law generally for filing notification and declaration forms with the county clerk in a year in which a regular election is to be held in which any city office is to be filled. Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of that ordinance shall be filed with the county clerk of the county in which the city is located. City officers of each city of the second class operating under the city manager form of government pursuant to KRS 83A.150 shall be elected in nonpartisan elections as provided in KRS 83A.170, *83A.175 and this Act.*

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by *KRS Chapters 116 to 121* [~~law for elections generally~~].

Section 4. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of *Section 2 of this Act* [~~KRS 83A.050~~] required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter *relating to nonpartisan elections* [~~concerning vacancies~~].

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by *KRS Chapters 116 to 121* [~~law for primary elections generally~~], except as otherwise provided in this chapter [~~concerning vacancies~~]. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least *two (2) registered* [~~one percent (1%) of the registered voters in the city or twenty (20)~~] voters *in the city*[~~, whichever is less~~]. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of __________ request that the name of __________ be placed before the voters of the city as that of an applicant for nomination for the office of __________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Street Address	Social Security Number
__________	__________	__________
__________	__________	__________
__________	__________	__________"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office. *If a primary election has not been held in accordance with the provisions of this section, candidates for nonpartisan city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within*

thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, *pursuant to KRS Chapters 116 to 121*, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) *KRS Chapters 116 to 121* [~~General election law~~] prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 5. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, *the following provisions shall apply:*

(a) The legislative body of the city shall fill the vacancy within thirty (30) days.

(b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.

(c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as

provided by KRS Chapter 83 shall not vote for himself.

(d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.

(3) *When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.*

(4) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(5)[~~(4)~~] If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(6)[~~(5)~~] If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular meeting of the city legislative body.

(8) Pursuant to KRS 118.305(6), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the secretary of state of the vacancy.

(9)[~~(6)~~] Except in cities of the first class, any elected officer, in case of misconduct, *incapacity* [~~inability~~], or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

(10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

SECTION 6. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of Section 2 of this Act, KRS 118.365, and KRS 118.375.

(2) The election to fill the unexpired term of any city office shall be held in accordance with the procedures described in this Act, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.

Section 7. KRS 83A.175 is amended to read as follows:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this *Act,* [~~section, in~~] KRS *Chapters 116-121,* [~~83A.170~~]

and section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are such offices to be filled, *or if a fourth to sixth class city has not conducted a primary election pursuant to Section 2 of this Act,* the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy signed by at least *two (2) registered* [~~one percent (1%) of the registered voters in the city or twenty (20)~~] voters *in the city*[~~, whichever is less~~]. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ________ request that the name of ________ be placed before the voters of the city as that of a candidate for election for the office of ________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Street Address	Social Security Number
		”

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

Section 8. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make

its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ballots are printed for the regular election, the governing authority of the party may provide for filling the vacancy. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) This section does not apply to candidates for members of boards of education, [~~members of the legislative bodies of cities of the fifth or sixth class,~~] or presidential electors, nor to candidates *participating in nonpartisan elections* [~~for mayor or commissioner in cities of the fourth class operating under the commission form of government and in cities of the second, third or fourth class operating under the city manager form of government~~].

Section 9. KRS 118.115 is amended to read as follows:

Except as provided in subsection (2)(b) of Section 2 of this Act governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than one hundred five (105) days before the primary. If the vacancy occurred less than one hundred five (105) days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

Section 10. KRS 118.165 is amended to read as follows:

(1) *Except as provided in this Act,* candidates for offices to be voted for by the electors of one (1) county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly, shall file their nomination papers with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 11. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, *for candidates for mayor or legislative body in cities of the second to sixth class* or to candidates participating in nonpartisan elections.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the general assembly or commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; *for a city officer, two (2) petitioners; and* for an officer of a division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. Each petitioner shall include his residence, social security number and post-office address. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The

petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The secretary of state and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the secretary of state or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The state board of elections shall prescribe the forms for the petition.

Section 12. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. [~~Any political party, as defined in KRS 118.015, may nominate candidates for members of the legislative bodies of cities of the fifth and sixth classes in the same manner.~~] Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of president and vice president of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of president and vice president of the United States the certificate of nomination shall state the names of the candidates of the party for president and vice president.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of president and vice-president of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The statement shall be prescribed by the state board of elections to be subscribed and sworn to by the person making it, before an officer authorized to administer an oath, such form to include the name, place of residence, and the party and office for which he desires to become a candidate. Such statement shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ballot labels are printed, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of president and

vice president of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the secretary of state and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the secretary of state and county clerk.

Section 13. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, age, if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, age, if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be *in the hands of the registry or* postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election *except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of Section 2 of this Act. Pursuant to KRS 83A.170 and subsection*

(2) of Section 2 of this Act, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds three hundred dollars ($300), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the name, address, age, if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be *in the hands of the registry or* postmarked within ten (10) days after June 30 and December 31 for opposed candidates and December 31 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note, except that an elected official who receives contributions subsequent to his election to retire his personal note, shall continue to file supplemental reports. All contributions made both prior and subsequent to the election shall be subject to the maximum individual contribution limit imposed by KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received;

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

The Committee Amendment No. 1 to **HB 31** is as follows:

Amend printed copy of **HB 31** on page 5, line 2 by deleting the words *"at which time"* and inserting in lieu thereof the words *"and if no person is elected to the office by write-in ballots at the regular election,"*.

The Committee on Health and Welfare reported **HB 14**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.110 is amended to read as follows:

(1) The body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a permit for burial, removal or other disposition has been issued by the registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the cabinet for human resources to be infectious, contagious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the cabinet for human resources and local board of health. *The cabinet for human resources shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person known to be infected with a communicable disease for which blood and body fluid precautions are required dies within a hospital, long-term care facility or other health care facility, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by prominently attaching to the body of the deceased a red tag bearing the words "Blood and Body Fluid Precautions."* Except as provided in subsections (2) and (3) of this section, no burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him. If any certificate of death is incomplete or unsatisfactory, the registrar shall call attention to the defects in the return, and shall withhold issuing the burial or removal permit until they are corrected.

(2) A transit permit issued in accordance with the law and health regulations of the place where the death occurred, whether in or outside of this state, may be accepted by the local registrar of the district where the body is to be interred or otherwise finally disposed of, in lieu of a certificate of death, but he shall plainly enter on the face of the copy of the record made for return to the cabinet for human resources the fact that it was a body shipped in for interment and the actual place of death. If the transit permit was issued outside of this state the local registrar of the district where the body is to be finally disposed of shall issue a local burial permit, but if the transit permit was issued in this state the registrar's burial or removal permit from the district where the death occurred may be accepted as authority for burial at the point of destination, without the issuance of a local burial permit.

(3) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body, unless the services of the coroner or the health officer are required or the cabinet for human resources deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body, the undertaker or person acting as such shall file with the local registrar or deputy registrar prior to interment, a provisional certificate of death,

which shall contain the name, date and place of death of the deceased and an agreement to furnish within five (5) days a complete and satisfactory certificate of death and the undertaker or person acting as such shall secure a complete and satisfactory certificate of death as provided in KRS 213.100 and return it within five (5) days from the date of burial to the local registrar of the district in which the death occurred.

(4) The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial, before interring the body, or, if the body is to be shipped by a transportation company, shall attach the transit permit, containing the registrar's removal permit, to the box containing the body. The transit permit shall accompany the body to its destination.

The Committee Amendment No. 1 to **HB 14** is as follows:

Amend printed copy of **HB 14** as follows:

On page 1, line 17, after the word "*person*" by deleting the words "*known to be*" and inserting in lieu thereof "*who has been diagnosed as being*"

On page 1, lines 19-20, by deleting the words "*hospital, long-term care facility or other health care facility*" and inserting in lieu thereof "*health care facility as defined in KRS 216B.015*"

On page 2, line 4, by inserting after the word "*Precautions*" the following:

"*; provided, however, that such notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States department of health and human services centers for disease control for morticians services*".

The Committee on State Government reported **HB 45**, **HB 195** with Committee Amendment attached thereto, **HB 237**, **HB 337** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 45, AN ACT relating to state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.010 is amended to read as follows:

(1) The general purpose of KRS 18A.005 to 18A.200 is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its classified employes and other incidents of state employment. All appointments and promotions to positions in the state classified service shall be made solely on the basis of merit and fitness, to be ascertained by competitive examination, except as hereinafter specified. The general assembly finds that this chapter is necessary in order to improve the morale and motivation of state employes and to gain the maximum utilization of human resources in order to provide better service to the citizens of this Commonwealth.

(2) The total number of permanent full-time personnel employed in agencies of the executive branch shall not exceed thirty-three thousand (33,000).

(3) The provisions of subsection (2) of this section do not apply to employes of the general assembly, the legislative research commission or the court of justice. *The employes of state agencies with no general fund or no road fund appropriations, are also exempt from such provisions.*

HB 195, AN ACT relating to the Kentucky Information Systems Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky information systems commission, hereinafter in this section and KRS 61.950 called the commission. It shall be the responsibility of the commission to coordinate, on a statewide level, strategic planning for computerized information systems in state government.

(2) The commission shall [~~be composed of sixteen (16) members appointed by the governor. It is suggested that the commission~~] consist of:

(a) Three (3) officers of the finance and administration cabinet which shall include *the secretary of the cabinet and the commissioners* [~~representatives~~] of the department of administration and department of information systems *or their respective designees*;

(b) *The state budget director or his designee* [~~One (1) representative of the governor's office for policy and management~~];

(c) [~~One (1) representative of the secretary of state appointed from a list of three (3) persons submitted by~~] The secretary of state *or his designee*;

(d) [~~One (1) representative of the state treasurer appointed from a list of three (3) persons submitted by~~] The state treasurer *or his designee*;

(e) [~~One (1) representative of the attorney general appointed from a list of three (3) attorneys submitted by~~] The attorney general *or his designee*;

(f) *The director of the administrative office of the courts or his designee* [~~One (1) member appointed from a list of three (3) persons submitted by the chief justice of the Supreme Court~~];

(g) [~~One (1) representative of the auditor of public accounts appointed from a list of three (3) persons submitted by~~] The auditor of public accounts *or his designee*;

(h) [~~One (1) representative of the department of libraries and archives appointed from a list of three (3) persons submitted by~~] The state librarian *or his designee*;

(i) One (1) representative of the Kentucky association of counties appointed *by the governor* from a list of three (3) persons submitted by the president of the Kentucky association of counties;

(j) One (1) representative of the Kentucky municipal league appointed *by the governor* from a list of three (3) persons submitted by the president of the Kentucky municipal league;

(k) One (1) member of the press to be appointed *by the governor* from a list of three (3) persons submitted by the president of the Kentucky press association; and

(l) Three (3) citizen members *appointed by the governor.*

(3) A member of the commission may not:

(a) Be an officer, employe, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the automated information industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(4) It is a ground for removal of a member of the commission if the member violates a prohibition established by subsection (3) of this section. The validity of an action of the committee is not affected by

the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a commission member exists, the chairman shall notify the governor of the potential ground for removal.

(5) *The term of office of the members specified in subsection (2)(a), (b), (c), (d), (e), (f), (g) and (h) of this section shall be the same as the term of office by virtue of which they serve upon the commission.*

(6) Appointed [~~Commission~~] members *of the commission* shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. *In the event a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.*

(7)[~~(6)~~] Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8)[~~(7)~~] A majority of the members shall constitute a quorum for the transaction of business.

The Committee Amendment No. 1 to **HB 195** is as follows:

Amend printed copy of **HB 195** on page 4, line 20, by inserting the following after the period

"Members' designees shall have voting privileges at commission meetings."

HB 237, AN ACT relating to trust and agency accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a joint budget resolution to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a joint budget resolution to receive and disburse contributions, gifts, donations, devises and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust or agency account has been established shall deposit with the state treasury all receipts of the character above described, and the finance and administration cabinet shall credit all such receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust or agency accounts shall be subject to withdrawal from the state treasury by the head of each budget unit when actually needed, on requisition to the finance and administration cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the finance and administration cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the finance and administration cabinet, the chief justice and the legislative research commission for their respective branches any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from such approved charges shall be credited to the surplus account of the general

fund.

(6) The department of information systems may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless such services or materials are required by law to be furnished gratuitously. The receipts from such authorized charges shall be deposited in the state treasury and credited to the trust and agency fund, department of information systems' operating account.

HB 337, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ninety (90) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) If it is intended that an emergency administrative regulation's subject matter remain in effect then the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

(6) The *administrative regulation review subcommittee or subsequently assigned* subcommittee may review an emergency administrative regulation and may recommend to the governor that the regulation be revoked.

(7) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.

(8) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the governor.

Section 2. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days of the receipt of the statement of consideration the *administrative regulation review* subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the *administrative regulation review* subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The *administrative regulation review* subcommittee's findings shall be published in the administrative register.

(6) Upon a finding by the administrative regulation review subcommittee that the regulation is deficient in a manner provided in KRS 13A.030(2)(a), the commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the regulation.

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed.

(8) The subcommittee shall be impowered to make the same non binding determinations and to exercise the same authority as the administrative regulation review subcommittee as provided in KRS 13A.030(2) and (3).

(9) Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 3. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee that consideration of the administrative regulation be deferred by *such* [~~the~~] subcommittee.

(2) Upon receipt of the request the subcommittee shall defer consideration of the proposal.

(3) The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under KRS 13A.310.

(4) *A* [~~The~~] subcommittee shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation.

(5) Except as provided in subsections (1) through (4) of this section neither the promulgating administrative body, the commission, nor the *administrative regulation review subcommittee or subsequently assigned* subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 4. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation,

or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption.

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter on the agenda of the next scheduled meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee. *Such* [~~The~~] subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 5. KRS 13A.320 is amended to read as follows:

When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee, nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

Section 6. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day the *administrative regulation review* subcommittee meets to consider the proposal *unless the administrative regulation review subcommittee finds that the regulation is deficient in a manner provided in KRS 13A.030(2)(a).*

(2) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has been found to be deficient in a manner provided in KRS 13A.030(2)(a) by the administrative regulation review subcommittee shall be considered as adopted, and shall become effective as of the adjournment on the day a subcommittee meets to review the proposal pursuant to KRS 13A.290(7). Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(6), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

(3) Any regulation which became effective pursuant to subsection (2) of this section or contains an amendment which became effective pursuant to subsection (2) of this section, subsequent to a subcommittee finding that the regulation or amendment thereto was deficient as authorized by KRS 13A.290(8), shall be effective only until the effective date for acts of the next succeeding regular session of the general assembly on which date it shall expire, unless enacted into statute by the regular session of the general assembly following its adoption.

(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute by the next regular session of the general assembly. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the general assembly.

(5) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

Section 7. The following KRS sections are repealed:

13A.260 Assignment of proposed administrative regulation to a subcommittee for review and consideration.

13A.345 Expiration of administrative regulations — Enactment of regulations into statute.

Section 8. Whereas, the provisions of this Act would alleviate confusion in the application and enforcement of administrative regulations by executive agencies and would facilitate planning by such agencies of future systems of administrative regulation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 337** is as follows:

Amend printed copy of **HB 337** on page 7, line 17, by inserting after the word "proposal" the words "*if the agency has complied with all the provisions of KRS Chapter 13A and any regulations promulgated under this chapter*"; and

On page 8, after line 26, by inserting "*(5) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of KRS Chapter 13A and any regulations promulgated under this chapter shall be considered procedurally defective and void.*"; and

On page 9, line 1, by deleting "*(5)*" and inserting in lieu thereof "*(6)*".

The Committee on State Government reported **HB 316** and **HJR 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 316, AN ACT relating to business combinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.398 is amended to read as follows:

(1) For purposes of subsection (2) of this section:

(a) "Announcement date" means the first general public announcement of the proposal or intention to make a proposal of the business combination or its first communication generally to shareholders of the corporation, whichever is earlier;

(b) "Determination date" means the date on which an interested shareholder first became an interested shareholder; and

(c) "Valuation date" means:

1. For a business combination voted upon by shareholders, the latter of the day prior to the date of the shareholders vote or the date twenty (20) days prior to the consummation of the business combination; and

2. For a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) The vote required by KRS 271A.397 does not apply to a business combination if each of the following conditions is met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of common stock in such business combination is at least equal to the highest of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers'

fees) paid by the interested shareholder for any shares of common stock of the same class or series acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher; or

3. The price per share equal to the market value per share of common stock of the same class or series determined pursuant to subparagraph 2. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of common stock of the same class or series acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of common stock of the same class or series on the first day in such two-year period on which the interested shareholder acquired any shares of common stock.

(b) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of a particular class or series of stock:

1. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of such class of stock acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The highest preferential amount per share to which the holders of shares of such class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation; or

3. The market value per share of such class of stock on the announcement date or on the determination date, whichever is higher; or

4. The price per share equal to the market value per share of such class of stock determined pursuant to subparagraph 3. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of any class of voting stock acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of the same class of voting stock on the first day in such two-year period on which the interested shareholder acquired any shares of the same class of voting stock.

(c) In making any price calculation under this section, appropriate adjustments shall be made to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock. The consideration to be received by holders of any class or series of outstanding stock is to be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for such class of stock shall be either cash or the form used to acquire the largest number of shares of such class or series of stock previously acquired by it.

(d) 1. After the interested shareholder has become an interested shareholder and prior to the consummation of such business combination:

a. There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation;

b. There shall have been no reduction in the annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock; and an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock; and

c. The interested shareholder did not become the beneficial owner of any additional shares of stock of the corporation except as part of the transaction which resulted in such interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

2. The provisions of sub-subparagraphs a. and b. of subparagraph 1. do not apply if no interested shareholder or an affiliate or associate of the interested shareholder voted as a director of the corporation in a manner inconsistent with such sub-subparagraphs and the interested shareholder, within ten (10) days after any act or failure to act inconsistent with such sub-subparagraphs, notifies the board of directors of the corporation in writing that the interested shareholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

(e) After the interested shareholder has become an interested shareholder, the interested shareholder may not have received the benefit, directly or indirectly, except proportionately as a shareholder, of any loans, advances, guarantees, pledges or other financial assistance provided by the corporation or any of its subsidiaries, whether in anticipation of or in connection with such business combination or otherwise.

(3) (a) Whether or not such business combinations are authorized or consummated in whole or in part after July 13, 1984 or after the interested shareholder became an interested shareholder, the requirements of KRS 271A.397 do not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates or associates, have been approved or exempted therefrom by resolution of the board of directors of the corporation:

1. Prior to two (2) months after July 13, 1984 or such earlier date as may be irrevocably established by resolution of the board of directors;

2. If involving transactions with a particular interested shareholder or its existing or future affiliates or associates, at any time prior to the time that the interested shareholder first became an interested shareholder; or

3. At any time if such business combination is approved by a majority of continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present.

(b) Unless by its terms a resolution adopted under this subsection is made irrevocable, it may be altered or repealed by the board of directors, but this shall not affect any business combinations that have been consummated, or are the subject of an existing agreement entered into, prior to the alteration or repeal.

(4) (a) Unless the articles of incorporation or bylaws of the corporation specifically provide otherwise, the requirements of KRS 271A.397 do not apply to business combinations of a corporation that, on July 13, 1984, had an existing interested shareholder, whether a business combination is with the existing shareholder or with any other person who becomes an interested shareholder, after July 13, 1984, or their present or future affiliates, unless, at any time after July 13, 1984, the board of directors of the corporation elects by resolution, adopted by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present, to be subject, in whole or in part, specifically, generally, or generally by types, as to specifically identified or unidentified interested shareholders, to the requirements of KRS 271A.397.

(b) The articles of incorporation or bylaws of the corporation may provide that if the board of directors adopts a resolution under paragraph (a) of this subsection, the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles of incorporation or the bylaws.

(c) An election under this subsection may be added to but may not be altered or repealed except by an amendment to the articles of incorporation adopted by a vote of shareholders meeting the requirements of subsection (5)(a)2. of this section.

(d) If a corporation elects under this subsection to be included within the provisions of KRS 271A.397 generally, without qualification or limitation, it shall file with the secretary of state articles of amendment including a copy of the resolution making the election and a statement describing the manner in which the resolution was adopted. The articles of amendment shall be executed in the manner required by KRS 271A.305.

(5) (a) Unless the articles of incorporation of the corporation provide otherwise, the requirements of KRS 271A.397 do not apply to any business combination of:

1. A corporation having fewer than *three* [~~five~~] hundred *(300)* [~~(500)~~] beneficial owners of its stock, *provided that if a corporation has an interested shareholder, the corporation had and continues to have fewer than three hundred (300) beneficial owners of its stock as of the date the interested shareholder first became an interested shareholder;*

2. A corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation after the July 13, 1984, by a vote of at least eighty percent (80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group and two-thirds of the votes entitled to be case by persons, if any, who are not interested shareholders of the corporation, voting together as a single voting group, expressly electing not to be governed by KRS 271A.397; or

3. An investment company registered under the federal Investment Company Act of 1940, as amended; a bank or a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended; a savings and loan holding company as defined in the federal Savings and Loan Holding Company Amendments of 1967, as amended; and a domestic insurer as defined under KRS 304.1-070.

(b) For purposes of subparagraph 1. of this subsection, all shareholders of a corporation who have executed an agreement to which the corporation is an executing party governing the purchase and sale of stock of the corporation or a voting trust agreement governing stock of the corporation shall be considered a single beneficial owner of the stock covered by the agreement.

HJR 1, A JOINT RESOLUTION designating the City of Berea as the Folk Arts and Crafts Capital of the Commonwealth of Kentucky.

WHEREAS, the City of Berea has long been recognized as the focal point for the manufacturing and selling of quality hand-made folk arts and crafts; and

WHEREAS, for over 100 years the Student Crafts Program at Berea College has promoted the image of Berea as the Folk Arts and Crafts Capital of Kentucky by teaching students the art of broommaking, pottery, ceramics, weaving, needlecraft, wrought iron design, furniture-making and woodworking; and

WHEREAS, Berea College provides year-round tours of the Student Crafts Program facilities; and

WHEREAS, within Berea there are approximately twenty studio artists who permit tourists to observe their artistic endeavors at their business locations; and

WHEREAS, there are thirty craft-oriented shops and industries in Berea, including the appalachian Shop, Benchmark Gallery, Blacksmith Shop, Boone Tavern Gift Shop, Churchill Weavers, Classic Craft and Antique Gallery, Cooper Shop, Fireside Gallery, Honeysuckle Shop, Log House Sales Room, Mooney's Jewelry, Promenade, Shuttle and Treadle Shop, Simple Gifts, Studio 105, Toll Gallery, Tree Finery, Upstairs Gallery, Weaver's Bottom, and others which are in the business of promoting and selling arts and crafts; and

WHEREAS, in 1986 alone, 250,000 tourists visited Berea; and

WHEREAS, the Kentucky Guild of Artists and Craftsmen, headquartered in Berea, sponsors a spring craft fair held annually on the third weekend in May and a fall craft fair held annually on the second weekend of October, and the Berea Craft Enterprises sponsors the Berea Craft Festival held annually in the second weekend of July; and

WHEREAS, the three annual craft fairs in Berea are held at the Indian Fort Theater and in 1986 attracted over 25,000 tourists; and

WHEREAS, this resolution documents Berea's total commitment of creating, promoting and celebrating the arts and crafts industry;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That Berea, Kentucky, is hereby designated the Folk Arts and Crafts Capital of the Commonwealth of Kentucky.

Section 2. That the Clerks of the Senate and the House of Representatives send a copy of this resolution to the Mayor of the City of Berea, the President of Berea College, the Kentucky Guild of Artists and Craftsmen, the Berea Craft Enterprises, the local tourism agency, the local Chamber of Commerce and any state agency which is responsible for tourism development.

Calendar

HB 198 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 11 and **HB 34** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 12, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 12** be passed.

Representative Scorsone moved the adoption of the Committee Amendment No. 3 to **HB 12**.

On the roll call the vote was yeas 11 - Barrows, Blevins, Clarke, Hancock, Hourigan, T. Jones, Lyne, Moberly, Noe, Pritchett, Scorsone. Nays 81 - Ackerson, Adams, Adkins, Allen, Altman, Ark, Ballard, Bronger, J. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Mack, Maggard, Mason, McBee, McElroy, Meyer, Napier, Nett, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Robinson, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Committee Amendment No. 3 to **HB 12** was rejected.

Representative Curd moved the adoption of the Committee Amendment No. 1 to **HB 12**. Agreed.

Representative Hourigan moved the adoption of the Committee Amendment No. 4 to **HB 12**. Agreed.

Representative T. Jones moved the adoption of Floor Amendment No. 1 to **HB 12**.

On the roll call the vote was yeas 30 - Arnold, Barrows, Blevins, Bronger, M. Brown, Bruce, Burch, L. Clark, Clarke, Cyrus, Donnermeyer, Geveden, Gray, Hourigan, Kerr, Lear, Long, McBee, Meyer, Moberly, Morris, Nett, Noe, Priddy, Richards, Scorsone, Seum, R. Smith, Strong, White. Nays 43 - Allen, Altman, Ark, J. Brown, Callahan, Casebier, Castleman, Crupper, Curd, Farrow, Ford, Freibert, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Hoover, A. Jones, R. Jones, Keith, Layman, Lile, Lyne, Maggard, McElroy, O'Brien, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, Riner, Robinson, Siler, B. Smith, Todd, Turner, Walker, Will, Yates.

Floor Amendment No. 1 to **HB 12** was rejected.

Representative McElroy moved that **HB 12**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See January 14, 1988 roll call on **HB 12** - Appendix A.)

HB 12, as amended, was passed.

Representative McElroy moved the adoption of the Committee Title Amendment to **HB 12**. Agreed; and the title was agreed to.

Representative McElroy moved that the vote by which **HB 12**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that **HB 40** be passed.

On roll call the vote was: Yeas 78, Nays 14. (See January 14, 1988 roll call on **HB 40** - Appendix A.)

HB 40 was passed and title agreed to.

Representative Maggard moved that the vote by which **HB 40** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to **HB 64**. Agreed.

Representative Hancock moved that **HB 64**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See January 14, 1988 roll call on **HB 64** - Appendix A.)

HB 64, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 64**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71 taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 71** be passed.

On roll call the vote was: Yeas 93, Nays 0. (See January 14, 1988 roll call on **HB 71** - Appendix A.)

HB 71 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 71** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 74** be passed.

On roll call the vote was: Yeas 96, Nays 0. (See January 14, 1988 roll call on **HB 74** - Appendix A.)

HB 74 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 75** be passed.

On roll call the vote was: Yeas 90, Nays 0. (See January 14, 1988 roll call on **HB 75** - Appendix A.)

HB 75 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 218 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 218** be passed.

On roll call the vote was: Yeas 94, Nays 1. (See January 14, 1988 roll call on **HB 218** - Appendix A.)

HB 218 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 218** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HCR 10**.

HCR 10, A CONCURRENT RESOLUTION adopting the calendar for the 1988 Regular Session.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on the days set forth below they do so to convene again on the days so indicated at a time to be set by motion upon adjournment:

Adjourn on Friday, January 15 to convene again on Wednesday, January 20;

Adjourn on Thursday, February 11 to convene again on Tuesday, February 16;

Adjourn on Friday, March 4 to convene again on Wednesday, March 9;

Adjourn on Wednesday, March 30 to convene again on Thursday, April 14.

Section 2. That Monday, February 22 be designated the last day for requesting bill drafts for the 1988 Regular Session.

On roll call the vote was: Yeas 85, Nays 0. (See January 14, 1988 roll call on **HCR 10** - Appendix A.)

HCR 10 was adopted.

Motions, Petitions and Communications

Representative Bronger moved that he be recorded as voting "yea" on **HB 75**. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 71**. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 6**, Representative Ford; **HB 12**, Representative Ackerson; **HB 20**, Representative Lefevers; **HB 26**, Representative Ford; **HB 40**, Representatives Ackerson, Ford, Handy, Northup, Strong, and Will; **HB 41**, Representative Reinhardt; **HB 71**, Representative Ackerson; **HB 181**, Representative Handy; **HB 230**, Representative Riner; **HB 381**, Representative Blevins; **HB 382**, Representative Blevins; **HB 383**, Representative Blevins; **HB 384**, Representative Blevins; **HB 385**, Representative Blevins; **HB 387**, Representative Casebier; **HB 388**, Representative Casebier; **HB 392**, Representative Clarke.

Representative Casebier moved that his name be withdrawn as co-sponsor of **HB 372**.

Representative Stumbo moved to suspend the rules to allow Introductions and Committee Reports. Agreed.

Introduction of Bills and Resolutions

HB 402, by Representatives Adkins, L. Clark, Robinson, Casebier, Lile, Little, Cyrus, Yates, Blevins, Gedling, Allen, Cline, M. Brown, Maggard and Bronger: AN ACT relating to annexation and declaring an emergency.

HB 403, by Representatives Stumbo, McElroy, Morris, Castleman, Priddy, R. Smith, Deskins, Gray, Ridley, Maggard, Jackson, Adkins, Adams, M. Brown, P. Clark, Blandford, Gedling, Little, Bronger and Curd: AN ACT relating to liability for damages resulting from the criminal use of a firearm.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 227** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 227, AN ACT relating to veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Any veteran who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping and admission in parks or campgrounds owned or operated by the Commonwealth of Kentucky.

(2) To claim the exemption provided for by subsection (1) of this section, a veteran shall forward:

(a) A copy of his separation form from military service; or

(b) A letter from one of the military forces or the veteran's administration; and

(c) Written proof of residence to the department of parks. The department shall mail a card to the veteran certifying that he is exempt from the fees specified in subsection (l) of this section.

Section 2. KRS 148.001 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of parks.

(2) "Commissioner" means the commissioner of parks.

(3) "Commission" means the state property and buildings commission.

(4) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

(5) "Sanctuary" means a place of refuge where wildlife is maintained and protected from depredation and destruction.

(6)[~~(5)~~] "Wildlife" means all living things that are neither human nor domesticated, including but not limited to mammals, reptiles, amphibians, birds, fishes, crustaceans, mollusks, trees, shrubs, vines, wildflowers, and non-flowering plants.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills:

Floor Amendment No. 2 to **HB 41**, by Representative Callahan:

Amend printed copy of **HB 41** on page 3, line 4, place a bracket before and strike through the comma at the end of the line;

On page 3, lines 5-6, delete lines 5-6 in their entirety and insert in lieu thereof "~~or any citizen of the county in which the house of prostitution is located, may~~];"

On page 3, line 7, before "*obtain*" delete "~~located~~], may"

On page 4, lines 19-21, delete the underlined language.

Floor Amendment No. 3 to **HB 41**, by Representative Callahan:

Amend printed copy of **HB 41** on page 6, line 12, capitalize all of the letters in "Section" and after "10." insert the following:

"A NEW SECTION OF KRS CHAPTER 233 IS CREATED TO READ AS FOLLOWS:

"If any private person seeks injunctive relief pursuant to KRS 233.030 and the court subsequently finds that a public nuisance has not been established, that person shall be liable for the payment of the reasonable attorney's fees of the defendant incurred in defending the action.

Section 11."

Floor Amendment No. 4 to **HB 41**, by Representative Johnson:

Amend printed copy of **HB 41** on page 1, line 4, delete ", *erection*";

On page 3, line 4, place a bracket before and strike through the comma at the end of the line;

On page 3, lines 5-6, delete lines 5-6 in their entirety and insert in lieu thereof "~~or any citizen of the county in which the house of prostitution is located, may~~];"

On page 3, line 7, before "*obtain*" delete "~~located~~], may"

On page 4, lines 19-21, delete the underlined language.

Floor Amendment No. 1 to the Committee Substitute to **HB 180**, by Representative Mack:

Amend printed copy of **HB 180** on page 8, line 12, by deleting all language beginning with the word "SECTION" through "*committee.*" on line 17 of page 10.

Floor Amendment No. 2 to **HB 307**, by Representative Bruce:

Amend printed copy of **HB 307** on page 1, line 6, by deleting "*1954*" and inserting in lieu thereof "*1986*".

The following meeting was announced:

The Western Kentucky Caucus will meet in Room 327 at 9:00 a.m., Friday, January 15, 1988.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m. on Friday, January 15, 1988.

On the roll call the vote was yeas 74 - Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, J. Harper, K. Harper, Hourigan, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Maggard, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Siler, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 6 - Bronger, J. Brown, Deskins, Heleringer, LeMaster, Lile, Overstreet.

The motion to adjourn was adopted.

FRIDAY, JANUARY 15, 1988

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 14, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 38**, **SB 47**, **SB 72**.

Introduction of Bills and Resolutions

HB 404 by Representatives Gray, A. Jones and R. Smith: AN ACT relating to motor fuel dispenser labeling.

HB 405 by Representatives Ballard, Morris, Lundergan, Ridley, Lear, Lemaster, Donnermeyer, Hancock and B. Smith: AN ACT relating to a tax refund designation for the bluegrass state games.

HB 406, by Representatives Maggard, Robinson and Strong: AN ACT relating to prepayment of fines.

HB 407, by Representatives Maggard, Robinson and Strong: AN ACT relating to traffic offenses.

HB 408, by Representative Farrow: AN ACT relating to urban-county retirement programs.

HB 409, by Representatives Gedling and Farrow: AN ACT relating to sales and use tax.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HJR 29**.

Cities: **HB 398**.

Counties and Special Districts: **HB 402**.

Energy: **HB 401**.

Judiciary-Civil: **HB 397**, **HB 403**.

Judiciary-Criminal: **HB 396**, **HB 400**.

State Government: **HJR 28**, **HB 399**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary Civil: **HB 323**, **HB 325**.

Cities: **HB 398**.

Counties and Special Districts: **HB 338**, **HB 391**, **HB 402**.

Banking and Insurance: **HB 322**, **HB 359**.

Calendar

HB 14, **HB 45**, **HB 195**, **HB 237**, **HB 337** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 31, **HB 227**, **HB 316**, **HJR 1** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 41, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Floor Amendment No. 4 to **HB 41**. Agreed.

Representative Callahan moved **HB 41**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 15, 1988 roll call on **HB 41** - Appendix A.)

HB 41, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 41**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 307, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Floor Amendment No. 2 to **HB 307**. Agreed.

Representative Noland moved the adoption of the Floor Amendment No. 1 to **HB 307**. Agreed.

Representative Bruce moved that **HB 307**, as amended, be passed.

On roll call the vote was: Yeas 96, Nays 0. (See January 15, 1988 roll call on **HB 307** - Appendix A.)

HB 307, as amended, and the title was agreed to.

Representative Bruce moved that the vote by which **HB 307**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for ten minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HCR 10**.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow Introductions and Committee Reports. Agreed.

Introduction of Bills and Resolutions

HB 410, by Representatives Ridley and Pritchett: AN ACT relating to property and casualty insurance.

HB 411, by Representative Ridley: AN ACT relating to oil and gas.

HB 412, by Representative Clarke: AN ACT relating to schools for the blind and deaf.

HB 413, by Representatives Ridley, A. Jones, Ballard and Gray: AN ACT relating to consumer protection.

HB 414, by Representatives Napier, Noland, Robinson, Ford, Adkins, Todd, Reinhardt and Lefevers: AN ACT relating to juries.

HB 415, by Representative O'Brien: AN ACT relating to ownership of property.

HB 416, by Representatives Heleringer and Seum: AN ACT relating to motor vehicle registration.

HB 417, by Representative Mason: AN ACT relating to public utilities.

HB 418, by Representative Scorsone: AN ACT relating to safety and security departments of colleges.

HB 419, by Representatives Curd and Gray: AN ACT relating to retirement.

HB 420, by Representatives Strong, Preston, Maggard, Gedling, Geveden, Allen, P. Clark, Noe, Robinson, Lefevers, Adams, Hoover, Napier, Siler, Keith, Todd and Mason: AN ACT relating to the local government economic assistance program.

Report of Committees

The Committee on Rules reported **HB 14**, **HB 31**, **HB 195**, **HB 237**, **HB 316**, **HJR 1** have been posted for passage in Orders of the Day January 20, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 380**

Business Organizations and Professions: **HB 284**

Committee Appointment

The Committee on Committees announced the assignment of Representative Bobby Richardson to the Committee on Banking and Insurance.

Motions, Petitions and Communications

Representative Heleringer moved that the rules be suspended to act upon Resolution **HR 26**. Agreed.

Representative Heleringer moved the adoption of the following **HR 26**.

HR 26, A RESOLUTION adjourning the House of Representatives in honor and memory of Representative Charles Joseph Jones Sr.

With heartfelt sorrow we pay homage and tribute to the memory of former Kentucky Representative Charles Joseph Jones Sr.

WHEREAS, Representative Charles Joseph Jones Sr. died at age 73 Sunday, December 27, 1987 at his home in Lake Dreamland; and

WHEREAS, Representative Charles Joseph Jones Sr. served three consecutive terms in the Kentucky House of Representatives, beginning in 1964; and

WHEREAS, Representative Charles Joseph Jones Sr. represented the 44th District in Jefferson County; and

WHEREAS, Representative Charles Joseph Jones Sr. has crossed that final bourne from which no traveler returns;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives express their deep sense of bereavement and loss and mourn at the passing of Representative Charles Joseph Jones Sr.

Section 2. That this honorable body does hereby express its profound sense of loss and grief upon the death of Representative Charles Joseph Jones Sr. and does extend to his family its most heartfelt sympathy and condolences.

Section 3. That when the House of Representatives does adjourn this day, Friday, January 8, 1988, it does so in honor and memory of Representative Charles Joseph Jones Sr.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the family of Representative Charles Joseph Jones Sr.

HR 26 was adopted by voice vote.

Representative Arnold moved that **HB 367** be reassigned to the Committee on Energy. Agreed.

Representative Barrows moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 5. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and cites Janet Clem for your sponsorship of the Jessamine County High School Boys Varsity Cheerleaders. Your leadership and dedication has helped pave the way to the successful performance of your squad at the 1988 National Cheerleaders Championship competition.

The House of Representatives joins Representative Joe Barrows in saluting and honoring you, Janet Clem, for your support and encouragement. (Sponsored by Representative Barrows)

Representative Barrows moved the adoption of the following Legislative Citation No. 6. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Captain Jenny France of the Jessamine County High School Boys Varsity Cheerleaders for your performance at the 1988 High School Cheerleaders National Championship competition which resulted in your squad's award of 5th place in the Large Varsity Division. This accomplishment has bestowed great pride and honor on your school, community and the Commonwealth of Kentucky.

The House of Representatives joins Representative Joe Barrows in applauding you for your dedication and hard work. (Sponsored by Representative Barrows)

Representative Will moved that he be withdrawn as sponsor of **HB 372**. Agreed.

Representative Stumbo moved to suspend the rules for Posting of Bills. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Appropriations and Revenue: **HB 390**.

Announcements

The Veterans Affairs Subcommittee of State Government will meet on Wednesday, January 20 at 10:00 a.m.

The Committee on Appropriations and Revenue will meet on Wednesday, January 20, 1988 at 12 noon in Room 109.

The Committee on Banking and Insurance will meet on Wednesday, January 20, 1988 at 12 noon in the Willis Room.

The Committee on Counties and Special Districts will meet on Wednesday, January 20, 1988 at 10:00 a.m.

The Appropriations and Revenue Subcommittee on Justice will meet on Wednesday, January 20, 1988 upon adjournment.

The Budget Review Subcommittee on Transportation will meet on Wednesday, January 20, 1988 at 2:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m. on Wednesday, January 20, 1988.

On the roll call the vote was yeas 80 - Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones,

Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Siler, B. Smith, Stumbo, Todd, Walker, White, Will, Worthington, Yates.
Nays 3 - Heleringer, LeMaster, Seum.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 20, 1988

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives Farrow, Johnson and Priddy.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 15, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 53**, **SB 71** and **SB 77**.

Introduction of Bills and Resolutions

HB 421, by Representative Yates: AN ACT relating to health insurance.

HB 422, by Representative Hourigan: AN ACT relating to ambulance service districts.

HB 423, by Representative Clarke: AN ACT relating to making appropriations for the operations, maintenance, support and functioning of the legislative branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 405, HB 409, HB 420.**

Banking and Insurance: **HB 410.**

Cities: **HB 408.**

Education: **SB 38, SB 72, HB 412, HB 418.**

Energy: **HB 404, HB 411, HB 417.**

Judiciary-Civil: **HB 414, HB 415.**

Labor and Industry: **HB 413.**

State Government: **SB 47, HB 419.**

Transportation: **HB 406, HB 407, HB 416.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 340**, **HB 375**, **HB 381**, **HB 382**, **HB 383**, **HB 384**, **HB 385**.

Report of Committees

The Committee on Appropriations and Revenue reported **SB 16**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 16, AN ACT relating to budget administration and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) In order to effectuate the constitutional power and duty of the general assembly to raise and appropriate revenue and approve and adopt a balanced budget, and in order that members and committees of the general assembly and the legislative research commission may be informed on a continuous basis about current and prospective financial conditions and budgetary needs of the Commonwealth and its budget units, the Kentucky general assembly finds and declares that uniform detailed budget data and records relating to expenditures, receipts and activities and the budgetary operations of all budget units must be available in electronic and print form to the general assembly and the legislative research commission on a continuous and timely basis.

(2) The contents of all electronic and print forms, records, data and procedures established under this Act shall pertain to:

(a) The submission of budget unit requests and branch budget recommendations;

(b) The adoption of budget bills;

(c) The allotments under, and authorized adjustments and revisions to, the enacted budget;

(d) The receipts and disbursements of budget funds pursuant to appropriations enacted by the general assembly; and

(e) The financial and budgetary conditions of the Commonwealth and branch budget units.

These contents, forms and records shall be standard and uniform for all budget units.

(3) The governor, the chief justice and the legislative research commission for their respective branches and budget units, shall cause to be created, maintained and transmitted in electronic form the data, records and procedures necessary to fulfill the intent and purposes of this Act and which may be provided by this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission, or its designee, shall prescribe standard electronic and print forms, records, data elements, guidelines and instructions to be used by all branches and budget units. Such electronic and printed detail records shall be made available and transmitted by the heads of each branch of government, or their designee, on a continuous and timely basis, in the form and technology used by the general assembly and the legislative research commission through electronic data processing procedures.

(2) (a) Representatives designated by the governor, chief justice, and the legislative research commission for their respective branches shall assist, upon request, the legislative research commission in the creation and maintenance of an automated central budget information system which shall consist of uniform electronic detail records concerning appropriations, expenditures, receipts, and activities.

(b) This system shall include all data germane to the appropriations of current and prospective budgetary resources and funds, including personnel-related data.

(3) Each branch of government shall transmit the prescribed forms, records and detailed data authorized under this Act on such schedule and dates as may be determined necessary by the general assembly, the legislative research commission or their appropriations committees or budget review committees.

(4) The legislative research commission may make available the contents and data contained on electronic records in the automated central budget information system, upon request, to each branch of government.

(5) At the request of the general assembly, the legislative research commission or their appropriations committees and budget review committees, the legislative research commission shall issue a report, in electronic or print form, on the current and prospective budget condition and operations of the Commonwealth and its branch budget units.

SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall supercede all other provisions in law which may be in conflict, including but not limited to KRS Chapters 6, 7, 11, 12, 15, 18 and 18A, 27A, 42, 43, 44, 45, 46, 47, 48, 56, 58, 131, 152, 157, 164, 171, 174, and 177.

(2) Data and records in electronic or print form which are authorized under this Act shall be in addition to all other data, records and forms which may be provided by law, including but not limited to, KRS 42.005 to 42.990, 45.001 to 45.991, and 48.010 to 48.800.

(3) The general assembly declares that:

(a) All data collected by or in the custody of any budget unit resulting from the expenditure of appropriated funds and which is not confidential under law shall be deemed to be the property right of the Commonwealth; and

(b) No property right or privilege of confidentiality may be asserted or maintained by such custodial budget unit for the production of records which may be created and required pursuant to this Act.

Section 4. Whereas, the 1988 general assembly finds that the impending financial condition of the Commonwealth requires the immediate need for timely and accurate budget related data in electronic form in order to appropriate limited potential budgetary resources for activities and services authorized by law, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to **SB 16** is as follows:

Amend printed copy of **SB 16** on Page 3, after line 14, by adding the following subsection:

(c) Preliminary work papers shall not be considered germane, however, all documentation upon which final budget decisions are made shall be considered germane and shall be included in the system.;

Line 21, by inserting the word "*shall*" in lieu of the word "*may*".

On Page 4, line 25, by adding after the word "*of*" the word "*public*";

Line 25, by adding after the word "*records*" the words "*not exempted pursuant to KRS Chapter 61*".

The Committee on Banking and Insurance reported **HB 199** and **HB 359** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 199, AN ACT relating to transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.655 is amended to read as follows:

(1) Before any certificate or permit will be issued or renewed, the applicant or holder of the certificate or permit must file or have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. The bond or policy shall have attached thereto the state insurance indorsement. All bonds or policies required herein must be issued in the name of the holder of the certificate or permit. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The bond or policy required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants or employes of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) Effective January 1, 1957, the types and minimum amounts of insurance to be carried on each vehicle are as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS, INCLUDING U-DRIVE-ITS

Capacity	Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
7 persons or less	$10,000.00	$20,000.00	$5,000.00
8 to 16 inclusive	10,000.00	30,000.00	5,000.00
17 to 25 inclusive	10,000.00	40,000.00	5,000.00
26 or more	10,000.00	50,000.00	5,000.00

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY, INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

Gross Weight	Death of Or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
18,000 lbs. or less	$ 10,000.00	$ 20,000.00	$ 5,000.00
More than 18,000 lbs.	100,000.00	300,000.00	50,000.00

(5) Any owner using any vehicle for the transportation of petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds shall have the following types and minimum amount of insurance

carried on each vehicle:

Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
$100,000.00	$300,000.00	$50,000.00

(6) Any owner using any vehicle for the transportation of hazardous material as defined in KRS 174.405, except petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds, shall have [~~the following types and minimum amount of insurance carried~~] on each vehicle *single limits liability insurance coverage of not less than one million dollars ($1,000,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence.*[~~:~~

~~Death of or Injury to Any One Person~~	~~Total Liability for Death of or Injury to Persons~~	~~Property Damage~~
~~$1,000,000.00~~	~~$1,000,000.00~~	~~$1,000,000.00~~]

~~(7) Before any Kentucky intrastate certificate, exclusively authorizing the transportation of property, except an irregular route common carrier certificate exclusively authorizing the transportation of Kentucky exempted commodities, shall be issued or renewed, the applicant or holder of the certificate must file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service, (a) for loss of or damage to property carried on any one motor vehicle in the amount of five thousand dollars ($5,000); (b) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place in the amount of ten thousand dollars ($10,000). Said policy or bond shall have attached thereto the Kentucky cargo policy indorsement and must be issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.~~

~~(8) The department may by regulation require motor carriers for hire operating exclusively interstate commerce to file proof of cargo insurance coverage in such form and in such amounts as the commissioner deems advisable.~~

~~(9) No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract, provided, however, that a prior cancellation may be allowed in cases where one policy, bond or contract is substituted for another policy, bond or contract where such substituted policy, bond or contract is of force and effect at a point in time prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract for which such additional policy, bond or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond or contract or the cancellation of any policy, bond or contract by the department, unless under the circumstances hereinbefore set forth, shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation.~~

~~(10) Upon the cancellation of any bond or insurance policy required by this section, all operating rights granted by the certificate or permit for which said bond or policy was filed, shall immediately cease, and the department is empowered to immediately require the cessation of all operations conducted under authority~~

~~of said certificate or permit, and to require the surrender of all certificates, permits, licenses and other evidence of a right to act as a motor carrier.~~

~~(11) The department may exempt in whole or in part from the requirements of this section any person who applies for such exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicle owned by him or operated under authority of his certificate or permit.~~

HB 359, AN ACT relating to health insurance coverage for state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

For purposes of this section, the term "state employe" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member of any of the retirement systems administered by the state and including any federally funded time-limited employe. It shall also include a person who must fulfill the requirements established by the state board of education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 18A.225, the department of personnel may establish a state employe benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the finance and administration cabinet as provided in KRS 18A.225(2).

(2) Benefits provided under this section include, but are not limited to hospitalization, surgical care, and major medical care for state employes and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board or agency for coverage shall be paid by the employe.

(4) No contribution by the state or department, board or agency shall constitute compensation to an insured employe for purposes of any statute fixing or limiting the compensation of such employe. Any expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the department of personnel may approve.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The state employe benefit fund shall be under the custody and supervision of the department of personnel. The department shall be responsible for all moneys coming into, and paid out of, the fund in accordance with this section, and shall ensure that the fund is actuarily sound.

(2) In carrying out its duties and responsibilities, the department of personnel shall:

(a) Adopt rules with regard to the administration of the state employe benefit fund;

(b) Adopt rules governing the conditions under which an employe may participate in or withdraw from the fund, and the procedure by which an employe is to contribute to the fund;

(c) Adopt rules to ensure that the fund is actuarily sound;

(d) Adopt rules to ensure the integrity of the fund, and to ensure that the fund be used solely for the purposes specified in this section;

(e) Purchase conversion insurance, reinsurance or excess insurance as deemed appropriate; and

(f) Contract, when advisable, with health providers for services as may best serve the interest of the fund.

(3) Amounts withheld from employes, amounts contributed by the state or from federal funds, and all amounts contributed by any state authority, shall be credited to and constitute a part of the state employe benefit fund. All other income, including the income derived from any dividends and distributions, and interest earned, shall also be credited to and constitute part of the fund. Any amounts remaining in the fund after all the premiums or subscription charges, and other expenses have been paid, shall be retained in the fund as a special reserve for adverse fluctuation.

(4) (a) The state treasurer, with approval of every investment by the finance and administration cabinet, may invest the state fire and tornado insurance fund in:

1. Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third and fourth classes;

2. Warrants issued on the state treasurer;

3. State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;

4. Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and

5. School bonds issued by cities under KRS 162.120 to 162.290.

(b) The finance and administration cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the state treasurer.

(c) All income derived from the investments shall accrue to the fund.

(d) Any necessary and reasonable cost incurred by the state treasurer in administering this program shall be charged against the fund.

(5) (a) The department of personnel shall file annually, by the first day of October, a complete report of its operations for the preceding calendar year conducted pursuant to this section, with the governor, the general assembly, and the state auditor of public accounts. The financial information required by this section shall be verified by the auditor of public accounts as provided in KRS 43.050.

(b) The report shall include a detailed financial statement of the fund and the expenses incurred pursuant to this section so that the cost of the fund established under this section can be determined and identified. The

report shall include, but not be limited to, the following information concerning the fund:

1. Assets and liabilities;

2. Income and expenditures;

3. Benefits paid and reserves for losses incurred but not yet paid, including potential losses and unreported losses;

4. Cost of any excess insurance, conversion coverage, reinsurance or of any other kind of insurance obtained to cover potential losses, or provide supplemental benefits;

5. Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employes.

(c) The report shall also contain the following information:

1. The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year pursuant to subsection (6) of this section:

2. A description of the benefits provided by the fund and the number of state employes covered under the fund;

3. The rights of state employes who terminate their employment and the extent of benefits or coverages thereafter available to those persons and their dependents; and

4. Any other information which is relevant in order to make full, fair, and effective disclosure of the operations of the fund conducted pursuant to this section.

(6) The department of personnel shall have prepared every year, by a competent actuary familiar with health insurance, a report showing a complete actuarial evaluation of the fund and the adequacy of the rates of contribution, which report shall contain such recommendations as the actuary considers advisable. The department may at any time request the actuary to make any studies or evaluations to determine the adequacy of the rates of contribution, and such rates may be adjusted by the department, as recommended by the actuary, effective as of the first of any fiscal year thereafter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The self-funded health insurance plan for state employes shall not be subject to taxation as provided in KRS 136.340(1) and shall not be required to pay taxes on premiums paid to unauthorized insurers in the purchase of insurance or reinsurance.

SECTION 5. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The department of personnel shall determine the date on which the self-funded health plan option shall be made available to state employes. The date of the initial enrollment period shall be within a reasonable time after the effective date of this Act.

Section 6. KRS 18A.220 is amended to read as follows:

The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225, *and Section 1 of this Act.*

Section 7. KRS 45A.022 is amended to read as follows:

(1) This chapter shall apply to all insurance contracts purchased by the Commonwealth except where

the commissioner of insurance determines, with the concurrence of the secretary of finance and administration cabinet, that:

(a) An emergency exists; or

(b) Competition is not feasible; or

(c) The annual premium is less than ten thousand dollars ($10,000).

(2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employes as authorized by KRS 18A.225 *and Section 1 of this Act* shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 8. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city or urban-county government upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city or urban-county government, less all premiums returned to policyholders. A fire insurance company entering a city or urban-county government during a license year shall, at the end thereof, promptly pay to such city or urban-county government the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city or urban-county government upon a life insurance company may be based upon premiums received, and if so based, shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city or urban-county government.

(4) Any license fee or tax imposed by such a city or urban-county government upon any insurance company other than those specified in subsections (2) and (3) of the section shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city or urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; provided, however, that any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act.

(5) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than thirty percent (30%) of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), (3) or (4) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(7) Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government, which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance

company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city or urban-county government may collect a fee of five dollars ($5) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00).

(9) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employes under KRS 18A.225(2) *and Section 1 of this Act.*

Section 9. KRS 136.330 is amended to read as follows:

(1) Every foreign life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the revenue cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted.

(2) Every company shall, at the time of making the return, pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such premium receipts.

(3) The 1962 amendment to this section shall be effective as of January 1, 1962, and shall apply to the premium taxes due and payable as shown on returns filed subsequent to that date.

(4) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 *and Section 1 of this Act* shall not be subject to taxation under this section.

Section 10. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the revenue cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 *and Section 1 of this Act* shall not be subject to taxation under this section.

Section 11. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the revenue cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 *and Section 1 of this Act* shall not be subject to taxation under this section.

The Committee on Counties and Special Districts reported **HB 338**, with Committee Amendment attached thereto, and **HB 402**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 338, AN ACT relating to federal liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.480 is amended to read as follows:

(1) Notices of tax liens payable to the United States and certificates discharging such liens shall be filed by the collector of internal revenue, in duplicate, in the office of the county clerk of each county within which the property subject to the lien is located.

(2) When a notice of a federal tax lien is filed, the county clerk shall forthwith enter the same in an alphabetical federal tax lien index, showing on one line the name and residence of the taxpayer named in the notice, the collector's serial number of such notice, the date and hour of filing, and the amount of tax and penalties. He shall endorse on both the original and duplicate copies of the notice the date and hour of filing and shall mail the duplicate to the collector of internal revenue from whom received. The county clerk shall file and keep all original notices so filed, in numerical order, in a file [~~or files~~] designated "Federal Tax Lien Notices."

(3) Notices of all other liens payable to the United States, including, but not limited to environmental protection liens, and certificates discharging such liens shall be filed, in duplicate, in the office of the county clerk of each county within which the property subject to the lien is located.

(4) When a notice of a federal lien as provided by subsection (3) of this section is filed, the county clerk shall forthwith enter the same in an alphabetical federal lien index, showing on one (1) line the name and residence of the property owner named in the notice, identifying the specific lien holder, the date and hour of filing, and the amount of the lien. He shall indorse on both the original and duplicate copies of the notice the date and hour of filing and shall mail the duplicate to the lien holder from whom received. The county clerk shall file and keep all original notices so filed, in numerical order, in a file designated "Federal Lien Notices."

Section 2. KRS 382.490 is amended to read as follows:

(1) When a certificate of discharge of any tax lien issued by the collector of internal revenue is filed in the office of the county clerk where the original notice of the lien is filed, the county clerk shall enter the certificate, with the date of filing, in the federal tax lien index, on the same line where the notice of the lien so discharged is entered, and shall permanently attach the original certificate of discharge to the original notice of lien. He shall mail the duplicate to the collector of internal revenue from whom received.

(2) When a certificate of discharge of any lien as provided by KRS 382.480(3) is filed, the county clerk shall enter the certificate, with the date of filing, in a federal lien index, on the same line where the notice of the lien so discharged is entered, and shall permanently attach the original certificate of discharge to the original notice of lien. He shall mail the duplicate to the lien holder from whom received.

The Committee Amendment No. 1 to **HB 338** is as follows:

Amend printed copy of **HB 338** on page 1, line 19, by inserting after the word "Notices" the words " *or in the encumbrance book*"; and on page 2, line 16, by inserting after the word *"Notices"* the words ", *or in the encumbrance book*".

HB 402, AN ACT relating to annexation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.420 is amended to read as follows:

(1) Whenever a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. Such ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory. If zoning has been adopted by the annexing city, then following a public hearing and recommendations by the planning commission for the city, the ordinance shall include a map showing the zoning that will be effective for the annexed area.

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days *of the effective date of this Act* [~~following July 15, 1980~~], fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk:

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ________________?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;

(b) If less than *fifty-one percent (51%)* [~~seventy-five percent (75%)~~] of *those persons voting* [~~the qualified voters in the area to be annexed~~] oppose annexation, the unincorporated territory shall become a part of the city; and

(c) If *fifty-one percent (51%)* [~~seventy-five percent (75%)~~] or more of *those persons voting* [~~the qualified voters in the area to be annexed~~] oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which less than *fifty-one percent (51%)* [~~seventy-five percent (75%)~~] of *those persons voting* [~~the qualified voters in the area~~] opposed annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

Section 2. Whereas, annexation ordinances are currently pending before several municipalities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to **HB 402** is as follows:

Amend printed copy of **HB 402** on page 2, line 18, after the word "than" by deleting: *"fifty-one percent (51%)"* and inserting in lieu thereof, *"fifty-five percent (55%)"*; and

On page 2, line 23, after the word "If" by deleting *"fifty-one percent (51%)"* and inserting in lieu thereof, *"fifty-five percent (55%)"*; and

On page 3, line 6, after the word "than" by deleting *"fifty-one percent (51%)"* and inserting in lieu thereof, *"fifty-five percent (55%)"*.

The Committee on Judiciary-Criminal reported **HB 222**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 222, AN ACT relating to the use of force.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 503 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly hereby recognizes that the citizens of the Commonwealth of Kentucky have a right to expect absolute safety within their own homes.

(2) Any occupant of a dwelling is justified in using any degree of physical force, including but not limited to deadly force, against another person who has made or is attempting an unlawful entry into that dwelling, and when the occupant has a reasonable belief that such other person might use any physical force, no matter how slight, against any occupant of the dwelling.

(3) Any occupant of a dwelling using physical force, including but not limited to deadly force, pursuant to the provisions of subsection (2) of this section, shall be immune from criminal prosecution for the reasonable use of such force and shall be immune from any civil liability for injuries or death resulting from the reasonable use of such force.

Section 2. KRS 503.080 is amended to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:

(a) The commission of criminal trespass or burglary in a [~~dwelling,~~] building or upon real property in his possession or in the possession of another person for whose protection he acts; or

(b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:

(a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

(b) [~~Committing or attempting to commit a burglary of such dwelling; or~~

~~(c)~~] Committing or attempting to commit arson of a dwelling or other building in his possession.

The Committee Amendment No. 1 to **HB 222** is as follows:

Amend printed copy of **HB 222** on page 2, after line 20, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Any resident of a dwelling using physical force, including but not limited to deadly force, pursuant to the provisions of Section 1 of this Act, shall be immune from civil liability for injuries or death resulting from the use of such force."

The Committee Amendment No. 2 to **HB 222** is as follows:

Amend printed copy of **HB 222** on page 1, line 6, to delete "*occupant*" and to insert in lieu thereof "*resident*"

And on page 1, line 12, to delete "*occupant*" and to insert in lieu thereof "*resident*"

And on page 1, line 16, to delete "*reasonable*"

And on page 1, line 17, following "*force*" to delete the remainder of the line

And on page 1, line 18, to delete the same

And on page 1, line 19, to delete "*such force*"

The Committee Amendment No. 3 to **HB 222** is as follows:

Amend printed copy of **HB 222** on page 2, line 4, to delete the bracket and strike through of the word "dwelling"

Orders of the Day

HB 31, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Amendment No. 1 to **HB 31**. Agreed.

Representative Meyer moved **HB 31**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 20, 1988 roll call on **HB 31** - Appendix A.)

HB 31, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 31**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 195, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 195**. Agreed.

Representative Donnermeyer moved **HB 195**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See January 20, 1988 roll call on **HB 195** - Appendix A.)

HB 195, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 195**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 237 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 237** be passed. Agreed.

On roll call the vote was: Yeas 72, Nays 16. (See January 20, 1988 roll call on **HB 237** - Appendix

A.)

HB 237 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 237** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 1 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HJR 1** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 20, 1988, roll call on **HJR 1** - Appendix A.)

HJR 1 was passed and the title agreed to.

Representative Napier moved that the vote by which **HJR 1** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration, and Enrollment of Bills and Resolutions. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Judiciary-Criminal: **HB 392**.

Introduction of Bills and Resolutions

HB 424, by Representative Clarke: AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 425, by Representative Kerr: AN ACT relating to water districts.

HB 426, by Representative Rapier: AN ACT relating to revenue and taxation and declaring an emergency.

HB 427, by Representatives Donnermeyer and Layman: AN ACT relating to a linked deposits loan program.

HB 428, by Representatives B. Jones, Long, Deskins, Rapier and Worthington: AN ACT relating to disposal of solid waste.

HB 429, by Representatives Long, B. Jones, Rapier, Worthington and Deskins: AN ACT relating to solid waste management.

HB 430, by Representatives B. Jones, Long, Rapier, Worthington, Priddy, Nett and Deskins: AN ACT relating to solid waste.

HB 431, by Representatives Long, B. Jones, Rapier, Hancock, Worthington and Deskins: AN ACT relating to local health departments.

HB 432, by Representatives B. Jones, Long, Deskins and Worthington: AN ACT relating to county control of solid waste disposal.

HB 433, by Representatives Morris and Bruce: AN ACT relating to economic development through creation of tourism and recreation zones.

HB 434, by Representative Lear: AN ACT relating to motor vehicles.

HB 435, by Representative Lear: AN ACT creating an additional district judgeship for Fayette County, and making an appropriation therefor.

HB 436, by Representative Lear: AN ACT relating to crimes and punishments.

HB 437, by Representative Lear: AN ACT relating to the transfer of ownership of motor vehicles.

Report on Enrolled Bills

The Committee on Enrollment reported **HCR 10** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications (continued)

Representative Rapier moved that **HB 245** be withdrawn. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 41**, "yea" on **HB 307**, and "yea" on **HR 26**. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 20**, Representatives K. Harper, Callahan; **HB 31**, Representatives Callahan, Cline, Will; **HB 176**, Representatives Allen, P. Clark, Castleman, Lyne, Northup, Preston, P. Richardson, R. Smith; **HB 204**, Representative Napier; **HB 222**, Representative Seum; **HB 247**, Representatives Lundergan, Reinhardt; **HB 307**, Representatives P. Clark, Maggard, Seum, White; **HB 324**, Representative Lile; **HB 328**, Representatives Lile, Seum; **HB 343**, Representative Lile; **HB 350**, Representative Lile; **HB 351**, Representative Lile; **HB 359**, Representatives Callahan, Donnermeyer; **HB 363**, Representative L. Clark; **HB 387**, Representative Will; **HB 392**, Representative Will; **HB 398**, Representative Lefevers; **HJR 1**, Representative Moberly; **HJR 3**, Representative Lile; **HJR 27**,Representative K. Harper.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills:

Floor Amendment No. 1 to **HB 14**, by Representative Burch.

Amend printed copy of **HB 14** on page 2, line 4 after the word "*Precautions.*" by adding the following: "*No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which require blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 CFR 453 (1982).*"

Floor Amendment No. 2 to **HB 14**, by Representative Mason.

Amend printed copy of **HB 14** on page 1, line 20 after the words "*the facility*" by inserting the following: "*, with the consent of the infected person or such person's next of kin or both.*"

Floor Amendment No. 3 to **HB 14**, by Representative Kerr.

Amend printed copy of **HB 14** on page 1, by amending the amendment to page 2, line 4, by inserting after the words *";provided, however, that"* the words *"lack of"*

Floor Amendment No. 1 to **HB 45**, by Representative O'Brien.

Amend printed copy of **HB 45** on page 2, line 4, by inserting after *"provisions"* and before the period, "." the words: ", *provided that such exemption shall not be construed to permit any state agency with general fund or road fund appropriations to increase its number of permanent full-time employes accordingly*".

Floor Amendment No. 1 to **HB 337**, by Representative O'Brien.

Amend printed copy of **HB 337** on page 9, between lines 7 and 8, insert the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

If the administrative regulation review subcommittee determines that an administrative regulation does not comply with the provisions of KRS 13A.030(2)(a), it shall transmit such determination to the legislative research commission. At its next regularly scheduled meeting after receipt of such determination, the commission shall review the determination of the administrative regulation review subcommittee. If it agrees with the determination of the administrative review subcommittee, it shall institute legal proceedings in Franklin Circuit Court to have the administrative regulation declared null, void and unenforceable.

The Committee on Judiciary-Criminal will meet at 10:00 a.m. in Room 110 on January 25, 1988.

The Committee on Education will meet January 21, 1988 in the Willis Room upon adjournment.

The Committee on State Government will meet at 10:00 a.m. in Room 116 on January 21, 1988.

The Committee on Cities will meet at 9:00 a.m. January 21, 1988.

The Committee on Rules will meet upon adjournment.

The Committee on Agriculture and Small Business will meet at 9:00 a.m. January 21, 1988.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 21, 1988.

On the roll call the vote was yeas 75-Adkins, Allen, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, A. Jones, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Richards, B. Richardson, Ridley, Riner, Robinson, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 4-Deskins, Heleringer, LeMaster, Overstreet.

The motion to adjourn was adopted.

THURSDAY, JANUARY 21, 1988

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Johnson.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 20, 1988 be dispensed with and the same approved. Agreed.

Representative B. Richardson moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative B. Richardson moved the adoption of the following Legislative Citations No. 11, No. 12 and No. 13. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Kim Birge of the Barren County Varsity Cheerleading Squad for your participation in the National Cheerleaders Association's 1988 competition in Dallas, Texas, which resulted in your squads unprecedented second year title of National High School Champions. This impressive award was captured by competing with your peers from 40 states, with over 4,000 individual participants. Your accomplishment has bestowed great pride and honor on your school, community and the Commonwealth of Kentucky.

The House of Representatives joins Representative Bobby Richardson in honoring you for your dedication and hard work. (Sponsored by Representative B. Richardson)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and cites Teresa Bewley for your sponsorship of the Barren County High School Varsity and Junior Varsity Cheerleading Squads. Your leadership and dedication helped pave the way to the successful performance of your squads at the 1988 National Cheerleaders Association Competition.

This prestigious body joins Representative Bobby Richardson in congratulating you on the National Champions Award to your Varsity Squad and 4th Place Award to your Junior Varsity Squad. (Sponsored by Representative B. Richardson)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Melissa Anderson of the Barren County High School Junior Varsity Cheerleading Squad for your 4th Place Award at the National Cheerleaders Association's 1988 competition in Dallas, Texas. Your dedication, hard work and team spirit was evident as you competed with over 4,000 of your peers from across the United States.

This prestigious body joins Representative Bobby Richardson in recognizing your outstanding accomplishment. (Sponsored by Representative B. Richardson)

Representative Moberly moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Moberly moved the adoption of the following Legislative Citations No. 24, No. 25 and No. 26. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes Darlene Young as coach of the Madison Central High School Cheerleading Squad. Your leadership paved the way for their success at the 1988 National Cheerleaders Association's competition in Dallas, Texas, which led to their award as Runners Up in the Small Varsity Division.

This prestigious body joins Representative Harry Moberly in saluting you for your dedication over the past three years as their coach. (Sponsored by Representative Moberly)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Madison Central High School on the achievement of your Boys Varsity Cheerleading Squad for their award as Runners Up in the Small Varsity Division at the 1988 National Cheerleaders Association's competition in Dallas, Texas.

The House of Representatives joins Representative Harry Moberly in acknowledging those members of your student body for bestowing honor on their school. (Sponsored by Representative Moberly)

The House of Representative of the Commonwealth of Kentucky hereby congratulates and applauds Patty Hamilton of the Madison Central High School Boys Varsity Cheerleading Squad for your performance at the 1988 National Cheerleaders Association's competition which resulted in your squad's award as Runners Up in the Small Varsity Division. This award brings honor to you as you competed against one hundred and twenty five other fine squads from across the United States.

The House of Representatives joins Representative Harry Moberly in saluting you for your many hours of hard work and dedication. (Sponsored by Representative Moberly)

Representative Long moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 32, by Representative Long: A RESOLUTION honoring the Shelby County High School football team and coaches for winning the 4-A State Football Championship title.

Representative Long moved the adoption of the following **HR 32**:

HR 32, A RESOLUTION honoring the Shelby County High School football team and coaches for winning the 4-A State Football Championship title.

WHEREAS, the Shelby County High School football team captured the 4-A State Football Championship with a thrilling 17-14 victory on November 27, 1987; and

WHEREAS, Shelby County's victorious "Rockets" had an impressive 11-3 season record; and

WHEREAS, the Shelby County High School football team is now the number one ranked high school football team in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives congratulates the Shelby County High School football team and salutes its coaches: Tom Becherer (Head Coach), Boyd Phillips, Phil Bell, Hubert Pollett, Mike Breidert, Patti Griffin and Scott Willard for their inspiring leadership.

Section 2. That copies of this resolution be sent to Coach Tom Becherer, Shelby County High School, Box 69, Rocket Lane, Shelbyville, Kentucky 40065, for distribution to this fine team and coaching staff.

HR 32 was adopted by voice vote.

Representative Long moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Long moved the adoption of the following Legislative Citations No. 19 and No. 20. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the championship talent exhibited by Jeff Hayden as a team player on the Shelby County Varsity Football Team. The highly tuned skills of the "ROCKETS" was rewarded with an 11-3 season that paved the way to the ultimate win — the State AAAA Football Championship.

This prestigious body recognizes the Rocket team members and their unique winning spark that is so special in a Champion. (Sponsored by Representative Long)

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends Kirby Chambers for the dedication and commitment given to the 1987-88 Shelby County High School winning football team. Your team spirit was a major inspiration to the team. It gave them the measure of support needed to surge ahead of all the other AAAA football teams to win the state championship.

This prestigious body recognizes you for your incredible spirit. (Sponsored by Representative Long)

Introduction of Bills and Resolutions

HB 438, by Representative Noe: AN ACT relating to civil rights.

HB 439, by Representatives Gray and Burch: AN ACT relating to prescription drugs.

HB 440, by Representative Mack: AN ACT relating to school personnel.

HB 441, by Representatives Stumbo, Maggard, Little, Deskins, Siler, White, Lefevers, Blevins, Mason, Adams and Strong: AN ACT relating to workers' compensation.

HB 442, by Representatives Crupper and P. Richardson: AN ACT relating to amusement rides and attractions.

HB 443, by Representatives Nett and Handy: AN ACT relating to animal shelters.

HB 444, by Representative B. Jones: AN ACT relating to legal actions.

HB 445, by Representative B. Jones: AN ACT relating to civil actions.

HB 446, by Representative B. Smith: AN ACT relating to insurance.

HB 447, by Representatives Nett and Burch: AN ACT relating to disabled adults.

HCR 30, by Representative Scorsone: A Concurrent RESOLUTION establishing the Family Court Feasibility Task Force.

HJR 31, by Representatives Hancock, P. Richardson, Freibert, Clarke, Lear, Crupper, Barrows, Moberly, T. Jones, Noland, Scorsone, Arnold, Lundergan, Long, LeMaster, Mack and Maggard: A JOINT RESOLUTION creating the Citizens Task Force on Development of the Kentucky River.

HJR 33, by Representatives Freibert, Rapier, Lile, Blevins and Scorsone: A RESOLUTION directing the Department of Education to participate in the Southern Regional Education Board/National Assessment of Educational Progress testing project and making an appropriation therefor.

HR 34, by Representative Deskins: A RESOLUTION honoring the Pikeville High School Panthers football team.

HR 35, by Representative Deskins: A RESOLUTION honoring the Pikeville High School Panthers football coach Hillard Howard.

HR 36, by Representative Allen: A RESOLUTION urging the Governor not to make financial reductions in certain agencies or programs when balancing the state's General Fund budget for the current fiscal year and for future bienniums.

Report of Committees

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day. January 22, 1988: **HB 66**, **HB 11**, **HB 34** and **HB 227**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 45**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 427**.

Appropriations and Revenue: **HB 423**, **HB 424**, **HB 426**.

Banking and Insurance: **HB 421**.

Counties and Special Districts: **HB 422**, **HB 425**.

Judiciary-Civil: **SB 71**, **SB 77**, **HB 435**.

Judiciary-Criminal: **HB 436**.

Natural Resources and Environment: **HB 428**, **HB 429**, **HB 430**, **HB 431**, **HB 432**.

State Government: **SB 53**, **HB 433**.

Transportation: **HB 434**, **HB 437**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Appropriations and Revenue: **HB 395**.

Representative Deskins moved that the rules be suspended to act upon Resolutions and Legislative Citations. Agreed.

Representative Deskins moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION honoring the Pikeville High School Panthers football team.

WHEREAS, the Pikeville Panthers football team defeated a strong Russellville team 28-6 for the Kentucky Class A football championship; and

WHEREAS, Pikeville achieved the championship berth in Louisville on November 26, 1987, even though two playoff games were played away from home at Cumberland and Beechwood; and

WHEREAS, community interest in the Panthers was such that attendance records were set at away from home games in Johns Creek, Cumberland, Beechwood and Belfry; and

WHEREAS, the Panthers "Point a Minute" offense averaged 8 yards from scrimmage per down while scoring an average of 1 point per minute of playing time for a total of 695 points in 14 games, an all time scoring record; and

WHEREAS, the Panthers "Big Dog D" defense only allowed 18 touchdowns in 14 games for an average of 1.3 touchdowns per game and shut out their opponents in 5 games; and

WHEREAS, the Pikeville Panthers record of 14 wins and no losses made them the only undefeated football team in Kentucky in 1987;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes the Panthers of Pikeville High School for the skill and determination that led them to the Class A football crown and an undefeated season.

Section 2. That the clerk of the House is directed to transmit sufficient copies of this resolution to Coach Howard for distribution to members of the team.

HR 34 was adopted by voice vote.

Representative Deskins moved the adoptions of the following **HR 35**:

HR 35, A RESOLUTION honoring the Pikeville High School Panthers football coach Hillard Howard.

WHEREAS, coach Hillard Howard coached the Pikeville Panthers to an undefeated season in 1987 enroute to winning the state A football championship; and

WHEREAS, coach Howard has coached the Panthers to 16 consecutive winning seasons in his 17 years as head coach; and

WHEREAS, in those years the Panthers have won 17 out of 26 playoff games and 8 regional titles; and

WHEREAS, coach Howard has amassed 153 wins including the 1987 14-0 undefeated season; and

WHEREAS, he received the Williamson Daily News All Area Coach Award and was named Associated Press Coach of the Year in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes coach Hillard Howard as one of the winningest coaches in Kentucky and commends his fine staff of assistant coaches Joe Mahan, Bill Allara, Ken Trivette and Larry Belcher and managers Bobby "Snab" Phillips, Suzanne Damron and Ronnie Ford.

Section 2. The House also wishes to congratulate principal Tom Swartz and Superintendent John Waddell.

Section 3. That the clerk of the House is directed to transmit sufficient copies of this resolution to coach Howard for distribution to the superintendent, principal, coaching staff and managers.

HR 35 was adopted by voice vote.

Representative Deskins moved the adoption of Legislative Citations No. 17 and No. 18. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Bobby Deramus for your contribution to the Pikeville High School Panthers in winning the 1987 Class A Football Championship. As a member of the team you exhibited your willingness to work a little harder to accomplish your goals and because of this you have brought great pride and honor upon your school.

The Kentucky General Assembly joins Representative Herbie Deskins in saluting the Pikeville High School Panthers. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Head Coach Hillard Howard of the Pikeville High School Panthers on winning the 1987 Class A Football Championship. Your outstanding leadership and coaching abilities are most creditable and you are to be commended for your efforts in encouraging your team to go that extra mile to accomplish their goals this season.

The Kentucky General Assembly joins Representative Herbie Deskins in saluting the coaches of the Pikeville High School Panthers. (Sponsored by Representative Deskins)

Report of Committees

The Committee on Cities reported **HB 9**, **HB 23** with Committee Substitute attached thereto, and **HB 54** with Committee Substitute attached thereto, **HB 55** with Committee Amendment attached thereto, and **HB 398** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 9, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact *interim* [~~land use regulations, including~~] zoning or other kinds of growth management regulations *which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.*

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations [~~on an interim or permanent basis~~] to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public facilities, schools, public grounds, historical districts, central business districts, prime agricultural land and other natural resources, and other specific areas of the planning unit which need special protection by the planning unit.

Section 2. KRS 100.328 is amended to read as follows:

(1) The planning commission shall have the authority to adopt all bylaws and procedures necessary to carry out the functions of this chapter.

(2) [~~If the planning commission is conducting or, in good faith is preparing to conduct, studies which are required for a comprehensive plan, the commission and the legislative bodies may prepare and adopt interim regulations before the otherwise required plan elements are completed.~~] The contents of and procedure for adoption and amendment of[~~, the~~] interim regulations, *as provided in KRS 100.201* shall be the same as for *permanent zoning or other kinds of growth management* [~~the regular~~] regulations.

HB 23, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.207 is amended to read as follows:

(1) Before a city or county enacts zoning regulations, as authorized by KRS 100.201, the planning commission shall prepare the text and map of all zoning regulations and shall hold at least one (1) public hearing. *Notice of the public hearing shall be given in accordance with the provisions of* [~~as required in~~] KRS Chapter 424.

(2) Subsequent to the public hearing, the planning commission shall submit [~~it~~] along with their recommendation, *a copy of the approved zoning regulation text and map* to the various legislative bodies and fiscal courts for adoption. A majority of the entire legislative body or fiscal court shall be required to *enact* [~~pass~~] a zoning *ordinance* [~~regulation~~] which contains any changes or departures from the zoning regulation as proposed by the planning commission after the change has been referred to the planning commission for its recommendation.

(3) The procedure for adoption of the zoning regulation, *as well as for the adoption of any amendment thereto,* shall be *by enactment of an ordinance pursuant to KRS Chapter 67, 67A, 83 or 83A* [~~the same as for any other regulation or order~~]; provided, however, that, notwithstanding publication requirements, the zoning *ordinance* [~~regulation~~] may be published by stating the title and general description of the regulations and referring to the place within the unit where a copy of the complete *ordinance* [~~regulation~~] may be examined without charge.

Section 2. KRS 100.211 is amended to read as follows:

(1) A proposal [~~for amendment~~] to *amend the text of* any zoning *ordinance* [~~regulation~~] may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the *planning* unit.

(2) A proposal to amend the map of any zoning ordinance may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the planning unit, or with an owner of the property in question.

(3) No proposed amendment to the text or map of any zoning ordinance shall be adopted by a fiscal court or legislative body of a planning unit, unless such proposal is referred first to the planning commission of the planning unit. The planning commission shall conduct at least one (1) public hearing on the proposed amendment and shall, within sixty (60) days from the date of receipt of such proposal, advise all applicable fiscal courts and legislative bodies whether it approves or disapproves of the proposed amendment. If the planning commission disapproves of the proposed amendment, it shall state in writing the reasons for disapproval. A majority of the entire membership of the applicable legislative body or fiscal court shall be required to override the disapproval of the planning commission. Except as otherwise provided herein, procedures applicable to the publication and adoption of an amendment to the text or map of any zoning ordinance shall be the same as for the original enactment.

(4) Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning ordinance; provided that:

(a) Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and

(b) When the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

(5) When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (4) of this section.

(6) When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (4) of this section.

(7) In addition to the public notice requirements prescribed in subsection (4) of this section, when the planning commission, fiscal court or legislative body of any planning unit proposes to amend the zoning map of that unit, notice of the public hearing before the planning commission shall be given at least thirty (30) days in advance of the hearing by first class mail to an owner of every parcel of property the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner[~~, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make recommendations to the various legislative bodies or fiscal courts involved, and it shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission.~~

~~(2) All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property~~].

Section 3. KRS 100.215, Planning commission to approve changes in zoning regulations, is repealed.

The Committee Substitute to **HB 23** is as follows:

HB 23, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.207 is amended to read as follows:

(1) Before a city or county enacts zoning regulations, as authorized by KRS 100.201, the planning commission shall prepare the text and map of all zoning regulations and shall hold at least one (1) public hearing. *Notice of the public hearing shall be given in accordance with the provisions of* [~~as required in~~] KRS Chapter 424.

(2) Subsequent to the public hearing, the planning commission shall submit [~~it~~] along with their recommendation, *a copy of the approved zoning regulation text and map* to the various legislative bodies and fiscal courts for adoption. A majority of the entire legislative body or fiscal court shall be required *for passage of an ordinance adopting these regulations. Notwithstanding publication requirements, the ordinance by which these regulations are originally adopted may be published by stating the title and general description of the regulations and referring to the place within the unit where a copy of the complete ordinance may be examined without charge* [~~to pass a zoning regulation which contains any changes or departures from the zoning regulation as proposed by the planning commission after the change has been referred to the planning commission for its recommendation~~].

(3) The procedure for *amending* [~~adoption of~~] the zoning regulation *text and map* shall be *as set forth in KRS 100.211* [~~the same as for any other regulation or order; provided, however, that, notwithstanding publication requirements, the zoning regulation may be published by stating the title and general description of the regulations and referring to the place within the unit where a copy of the complete regulation may be examined without charge~~].

Section 2. KRS 100.211 is amended to read as follows:

(1) A proposal for *a zoning map* amendment [~~to any zoning regulation~~] may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with *an* [~~the~~] owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by *this chapter* [~~KRS Chapter 424~~] and make *findings of fact and a recommendation of approval or disapproval of the proposed map amendment* [~~recommendations~~] to the various legislative bodies or fiscal courts involved. *A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval.* [~~, and~~] It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission. *Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective by operation of law without the necessity for the adoption of an ordinance.*

(2) A proposal to amend the text of any zoning regulation which must be voted upon by the legislative body or fiscal court may originate with the planning commission of the unit or with any fiscal court or legislative body which is a member of the unit. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment. It shall take an affirmative vote of a majority of the fiscal court or legislative body to adopt the proposed amendment.

(3) Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning regulation text or map; provided that:

(a) Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and

(b) When the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

(4) When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(5) When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (3) of this section.

(6) In addition to the public notice requirements prescribed in subsection (3) of this section, when the planning commission, fiscal court or legislative body of any planning unit originates a proposal to amend the zoning map of that unit, notice of the public hearing before the planning commission shall be given at least thirty (30) days in advance of the hearing by first class mail to an owner of every parcel of property the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner [~~All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property~~].

Section 3. KRS 100.215, Planning commission to approve changes in zoning regulations, is repealed.

HB 54, AN ACT relating to land use restrictions imposed under KRS Chapter 100.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) Effective October 1, 1988, the county clerk of every county containing a planning unit which has enacted land use regulations pursuant to this chapter shall, upon receipt of a recording fee of ten dollars and fifty cents ($10.50), file and maintain among the official records of his office certificates of land use restriction completed according to this Act. The certificates shall be in the form designated in Section 3 of this Act; shall be completed and filed by the secretary of the planning commission, board of adjustment, legislative body or fiscal court which finally adopts or imposes the land use restriction described in the certificate; and shall be filed within fifteen (15) days of the date upon which the body takes final action to impose or adopt the restriction. The certificate shall set forth the name and address of the property owner; the address of the property; the name of the subdivision or development, if there is one; the name and address of the body which maintains the original records containing the restriction; and shall indicate the type of land use restriction adopted or imposed upon the subject property on or after October 1, 1988, including zone map amendments, variances, conditional use permits, conditional zoning conditions, subdivision plats and development plans. The county clerk shall cross index the certificates by property owner, property address and, if applicable, name of subdivision or development.

(2) The planning unit shall collect the county clerk's filing fee for the certificate from the applicant at the time any proceeding is initiated which may result in the imposition, adoption, amendment or release of any land use restriction provided for in this chapter; and the planning unit may also charge the applicant a fee, not to exceed five dollars ($5), in addition to any other applicable filing or administrative fee, to compensate the planning unit for completing and filing the certificate. The fees permitted by this Act shall be refunded to the applicant in the event no land use restriction is imposed or adopted as a result of the proceeding.

(3) When a restriction reflected on the certificate is amended, a new certificate shall be filed. In the case of such amendment or in the event the original restriction is released, the previous certificate shall be released by the secretary of the body which amended or released the restriction in the same manner as releases of encumbrances upon real estate.

(4) The failure to file, to file on time, or to complete the certificate properly or accurately shall not affect the validity or enforceability of any land use restriction or regulation. Any improper filing may be cured by a subsequent proper filing. Nothing herein shall affect the running of time for any appeal or other act for which a time limit is prescribed by this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall affect other recording requirements imposed by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

In the event a planning commission, fiscal court or legislative body orignates a zoning map amendment for more than five (5) contiguous properties, upon approval of such map amendment, there shall be filed a single certificate setting forth the required information for all the properties, and the orignating body shall pay a single filing fee for such certificate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The form for the certificate of land use restriction required by this Act shall be as follows:

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (s)

____________________________ ____________________________

____________________________ ____________________________

______________________ ______________________

______________________ ______________________

2. ADDRESS OF PROPERTY

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

______________________ ______________________

______________________ ______________________

______________________ ______________________

4. TYPE OF RESTRICTION(s) (Check all that apply):

Zoning Map Amendment to Zone

Conditional Zoning Condition

Development Plan

Other ______________________
specify

Subdivision Plat

Variance

Conditional Use Permit

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

____

____

____

____
Signature of Completing Official

____
Name and Title of Completing Official (Type or print)

Section 5. KRS 100.991 is amended to read as follows:

(1) Any person or entity who violates any of the provisions of KRS 100.201 to 100.347 or any of the regulations adopted pursuant thereto for which no other penalty is provided, shall upon conviction be fined not less than ten dollars ($10) but not more than five hundred dollars ($500) for each conviction. Each day of violation shall constitute a separate offense.

(2) Any person, owner or agent who violates this chapter shall, upon conviction, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

(3) *Any person who intentionally violates any provision of Sections 1 through 3 of this Act shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred*

dollars ($500).

(4) A commission may appoint enforcement officers who shall have authority to issue citations for violations of this chapter which the officer has observed, but shall not have powers of peace officers to make arrests or carry deadly weapons. The defendant shall appear within a designated time pursuant to the citation.

(5)[~~(4)~~] The procedure for citations issued by an enforcement officer shall be as provided in KRS 431.015.

The Committee Substitute to **HB 54** is as follows:

HB 54. AN ACT relating to land use restrictions imposed under KRS Chapter 100.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) Effective October 1, 1988, the county clerk of every county containing a planning unit which has enacted land use regulations pursuant to this chapter shall, upon receipt of a recording fee of ten dollars and fifty cents ($10.50), file and maintain among the official records of his office certificates of land use restriction completed according to this Act. The certificates shall be in the form designated in Section 3 of this Act; shall be completed and filed by the secretary of the planning commission, board of adjustment, legislative body or fiscal court which finally adopts or imposes the land use restriction described in the certificate; and shall be filed within thirty (30) days of the date upon which the body takes final action to impose or adopt the restriction. The certificate shall set forth the name and address of the property owner; the address of the property; the name of the subdivision or development, if there is one; the name and address of the body which maintains the original records containing the restriction; and shall indicate the type of land use restriction adopted or imposed upon the subject property on or after October 1, 1988, including zone map amendments, variances, conditional use permits, conditional zoning conditions, subdivision plats and development plans. The county clerk shall cross index the certificates by property owner, property address and, if applicable, name of subdivision or development.

(2) The planning unit shall collect the county clerk's filing fee for the certificate from the applicant at the time any proceeding is initiated which may result in the imposition, adoption, amendment or release of any land use restriction provided for in this chapter; and the planning unit may also charge the applicant a fee, not to exceed the reasonable cost of completing and filing the certificate, in addition to any other applicable filing or administrative fee, to compensate the planning unit for completing and filing the certificate. The fees permitted by this Act shall be refunded to the applicant in the event no land use restriction is imposed or adopted as a result of the proceeding.

(3) When a restriction reflected on the certificate is amended, a new certificate shall be filed. In the case of such amendment or in the event the original restriction is released, the previous certificate shall be released by the secretary of the body which amended or released the restriction in the same manner as releases of encumbrances upon real estate.

(4) The failure to file, to file on time, or to complete the certificate properly or accurately shall not affect the validity or enforceability of any land use restriction or regulation. Any improper filing may be cured by a subsequent proper filing. Nothing herein shall affect the running of time for any appeal or other act for which a time limit is prescribed by this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall affect other recording requirements imposed by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

In the event a planning commission, fiscal court or legislative body orignates a zoning map amendment for more than five (5) contiguous properties, upon approval of such map amendment, there shall be filed a single certificate setting forth the required information for all the properties, and the orignating body shall pay a single filing fee for such certificate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The form for the certificate of land use restriction required by this Act shall be as follows:

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (s)

____________________ ____________________

____________________ ____________________

____________________ ____________________

____________________ ____________________

2. ADDRESS OF PROPERTY

____

____

____

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

____

____

____

4. TYPE OF RESTRICTION(s) (Check all that apply):

Zoning Map Amendment to Zone

Development Plan

Subdivision Plat

Variance

Conditional Use Permit

Conditional Zoning Condition

Other ____________________
specify

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

____

____

____

____
Signature of Completing Official

____
Name and Title of Completing Official (Type or print)

Section 5. KRS 100.991 is amended to read as follows:

(1) Any person or entity who violates any of the provisions of KRS 100.201 to 100.347 or any of the regulations adopted pursuant thereto for which no other penalty is provided, shall upon conviction be fined not less than ten dollars ($10) but not more than five hundred dollars ($500) for each conviction. Each day of violation shall constitute a separate offense.

(2) Any person, owner or agent who violates this chapter shall, upon conviction, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

(3) *Any person who intentionally violates any provision of Sections 1 through 3 of this Act shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).*

(4) A commission may appoint enforcement officers who shall have authority to issue citations for violations of this chapter which the officer has observed, but shall not have powers of peace officers to make arrests or carry deadly weapons. The defendant shall appear within a designated time pursuant to the citation.

(5)[~~(4)~~] The procedure for citations issued by an enforcement officer shall be as provided in KRS 431.015.

HB 55, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 100.211 TO 100.212 IS CREATED TO READ AS FOLLOWS:

A legislative body or fiscal court may adopt, in lieu of the provisions of KRS 100.211, a regulation to provide as follows:

(1) A proposal for a map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with the owner of the property in question.

(2) Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption.

(3) The planning commission shall then hold at least one (1) public hearing after notice as required by KRS Chapter 424 and this chapter, and make recommendations to the various bodies or fiscal courts involved.

(4) A planning commission recommendation relating to the proposed amendment shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, all as set forth in the planning commission recommendations, unless within fourteen (14) days after the final action by the planning commission:

(a) Any aggrieved person files a written request with the planning commission that the final decision shall be made by the appropriate legislative body or fiscal court; or

(b) The appropriate legislative body or fiscal court files a notice with the planning commission that the legislative body or fiscal court shall decide the map amendment.

(5) It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission.

(6) All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation; and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property; and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located

at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

The Committee Amendment No. 1 to **HB 55** is as follows:

Amend printed copy of **HB 55** on page 2, line 1, by deleting the language "*fourteen (14) days*" and inserting in lieu thereof "*twenty-one (21) days*".

HB 398, AN ACT relating to cities participating in the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. *Cities which participate in the system pursuant to this Act shall be required to purchase on behalf of each employe electing coverage only as much service credit as the employe has accumulated in the city administered plan, up to the participation date of the city. Accumulated service shall include service for which an employe received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employe has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employe's repayment, the city shall purchase the associated service credit for the employe.* Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board.[~~; however,~~] A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, *except that cities which participate in the system pursuant to this Act may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employes electing coverage*; and

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After *August* [~~July~~] 1, *1988* [~~1985~~], *no local government retirement system shall be created pursuant to KRS 70.580-70.598 and any* local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and *KRS Chapter 96* [~~96.180~~] shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410, *or any such policemen or fire fighter members employed on or prior to August 1, 1988 who transfer to the county employes retirement system,* shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall[~~, if its local pension system provides a defined benefit,~~] select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which *closed their local pension systems to new members and participated in the system prior to the effective date of this Act, whose employes at the time of transition were given the option to join the system shall not be required to offer said employes a second option to join the system* [~~provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation~~].

Section 2. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or *KRS Chapter 96* [~~96.180~~] shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city *or municipal agency* with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or *KRS Chapter 96* [~~96.180~~] which is closed to new members pursuant to KRS 78.530, 95.520, 95.621 or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of such expenses in their recommendations for pension system funding, and local governments shall add payments for such expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency or urban county government may, pursuant to KRS 67A.340, 79.080, 90.410 or KRS Chapter 96 as applicable, provide for the retirement security of its employes through the creation of a money purchase or defined contribution plan qualified under section 401(a) of the internal revenue code of 1954 as amended. City employe deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under section 401(a) of the internal revenue code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employe entry into the county employes retirement system, as required by this Act.

Section 3. KRS 95.520 is amended to read as follows:

(1) There shall be in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund unless the policemen and fire fighters are included in the membership of the county employes retirement system.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) *(a) After August 1, 1988, no new locally administered pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988;*

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or fire fighters rehired after August 1, 1988, by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or fire fighters newly hired after August 1, 1988, in the county employes retirement system;

(d) Cities which were covered by this section on or prior to August 1, 1988 shall offer employes hired on or prior to August 1, 1988, membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section;

(e) The city shall certify that all police and fire fighters placed in the county employes retirement system, and not covered by social security for their employment with the city, are employed in hazardous positions. If the police and fire fighters are covered by social security for their employment with the city, the city may certify that they are employed in hazardous positions; and

(f) [~~As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant

to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant to KRS 78.535(4).

Section 4. KRS 95.621 is amended to read as follows:

(1) A city of the third class may adopt an ordinance creating a pension fund for fire fighters and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third-class city does elect to adopt KRS 95.621 to 95.629 all the provisions herein are mandatory. The provisions of KRS 95.620 shall apply to any city of the third class which has adopted KRS 95.621 to 95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) *(a) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988;*

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or fire fighters rehired after August 1, 1988, by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or fire fighters newly hired after August 1, 1988, in the county employes retirement system.

(d) Cities which were covered by this section on or prior to August 1, 1988 shall offer employes hired on or prior to August 1, 1988, membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section;

(e) The city shall certify that all police and fire fighters placed in the county employes retirement system, and not covered by social security for their employment with the city, are employed in hazardous positions. If the police and fire fighters are covered by social security for their employment with the city, the city may certify that they are employed in hazardous positions; and

(f) [~~As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant

to KRS 78.535(4).

Section 5. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities of the second class, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries *unless the policemen and fire fighters are included in the membership of the county employes retirement system, and certified to be working in hazardous positions.* The fund shall be established as of July 1, 1956, and shall be known as the "policemen's and fire fighter's retirement fund of the city of ________________." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 287.225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) *(a) After August 1, 1988, no new pension fund shall be created pursuant to this section and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988;*

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or fire fighters rehired after August 1, 1988, by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or fire fighters newly hired after August 1, 1988, in the county employes retirement system.

(d) Cites which were covered by this section on or prior to August 1, 1988 shall offer employes hired on or prior to August 1, 1988, membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section;

(e) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions; and

(f) [~~As an alternate to coverage under subsection (1) of this section, a city of the second class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group, vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant to KRS 78.535(4).

Section 6. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of:

(a) Revenues of the city authorized by the city legislative body, which shall not be less than the amount contributed by the members of the police and fire departments;

(b) All rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department;

(c) Assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 1/2%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

(3) (a) After *August* [~~July~~] 1, *1988* [~~1985~~], no new pension fund shall be created pursuant to this section, *and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988.* [~~Cities which become cities of the fourth class after July 1, 1985 may give their police and fire fighters membership in the county employes retirement system.~~]

(b) Cities which were covered by this section on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] shall provide for the retirement of police or fire fighters rehired after *August* [~~July~~] 1, *1988,* [~~1985~~] by placing such employes in the county employes retirement system.

(c) Cities which were covered by this section on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] shall place police or fire fighters newly hired after *August* [~~July~~] 1, *1988,* [~~1985~~] in the county employes retirement system.

(d) [~~Such~~] Cities *which were covered by this section on or prior to August 1, 1988* shall offer employes hired on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

(e)[~~(d)~~] The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions.

Section 7. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United States department of health, education and welfare, except as provided in subsection (4) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes and elected officers. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination

of contributions by employes and elected officers and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Cities of all classes, counties, urban-county governments, the agencies of cities, counties, and urban-county governments, and all other political subdivisions of the state are authorized to provide disability, hospitalization or other health or medical care coverage to their officers and employes, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase such coverages.

(4) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employes and elected officers, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five (25) persons, for any other hospitalization benefit shall be paid by the employe.

(5) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(6) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(7) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(8) After *August* [~~July~~] 1, *1988* [~~1985~~], no new retirement plan shall be created pursuant to this section, *and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988*. Any city, county, urban county or agency thereof which provided a retirement plan for its employes, pursuant to this section, on or prior to *August 1* [~~July~~], *1988* [~~1985~~] shall place employes hired after *August* [~~July~~] 1, *1988* [~~1985~~] in the county employes retirement system. The city, county, urban county or agency thereof shall offer employes hired on or prior to *August* [~~July~~] 1, *1988* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 8. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service, and may assess monthly

such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every three (3) years after an actuarial survey of the fund, and shall be in effect for a period of at least three (3) years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, *except that employes, pursuant to this Act, may choose to participate in the county employes retirement system.* A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(8) After *August* [~~July~~] 1, *1988,* [~~1985~~], no new pension fund shall be created pursuant to this section, *and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988.* Any city which provided a pension plan for its employes on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] shall place employes hired after *August* [~~July~~] 1, *1988,* [~~1985~~] in the county employes retirement system. The board shall offer employes hired on or prior to *August* [~~July~~] 1, *1988* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. [~~Selection of the alternate participation shall be optional for cities which provide a defined contribution pension plan.~~]

Section 9. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service, and may assess monthly such amount or percent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employe. The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employes.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, *except that employes, pursuant to this Act, may choose to participate in the county employes retirement system.* A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(4) After *August* [~~July~~] 1, *1988* [~~1985~~], no new pension fund shall be created pursuant to this section, *and cities which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988.* Any city which provided a pension plan for its employes on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] shall place employes hired after *August* [~~July~~] 1, *1988,* [~~1985~~] in the county employes retirement system. The board shall offer employes hired on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 10. KRS 96.180 is amended to read as follows:

(1) The board may, by proper order, provide a pension plan for its employes. In the event the board elects to provide a pension plan, it shall determine and formulate the form of pension plan to be used; determine and prescribe the eligibility of employes or their dependents to a pension or other benefits; determine and prescribe the monthly allowance or pension for employes or their dependents so determined to be eligible for a pension or benefits under the pension plan, not to exceed, however, a sum equal to one-half (1/2) of the monthly salary or wages of any employe at the time of his or her retirement; appoint a commission, which shall consist of three (3) members possessing the qualifications of a member of the board, for the administration of the pension plan and prescribe the powers and duties of such commission; appoint a trustee of the pension fund, fix the term of his office and the compensation of such trustee, and prescribe the powers and duties of such trustee and do and perform any other or further acts necessary to effectuate such pension plan. When a pension plan shall have been adopted, a commission appointed to administer such plan and a trustee of the pension fund appointed and qualified, the board may annually appropriate and pay out of its operating revenue, as a operating expense, into the sinking fund, a sum sufficient, when determined on a fair actuarial basis, to maintain the pension plan so adopted, not exceeding, however, a sum equal to one-half of one per cent (.5%) of the fair value of the utility property and assets. The board may assess, and cause to be paid into the pension fund monthly, such amount or per cent of the salary of all employes eligible under and electing to accept the pension plan as may be equitably determined on a fair actuarial basis, not to exceed, however, five per cent (5%) of the monthly salary of any employe. The trustee of the pension fund shall give such bond as required by the board, the cost of which shall be payable out of the pension fund. The trustee of the pension fund shall each year file with the board a report showing his actions and his accounts as such trustee.

(2) The board shall have full power to receive any and all funds of property which may be available or become available to the board or the city for use in the creation or maintenance of a pension plan for the employes of the board, including but not limiting the power to sign, execute and deliver such receipts, indemnity agreement or other writing which either the board or the city may be required to sign, execute and deliver to obtain any such fund or property for such purpose.

(3) (a) After *August* [~~July~~] 1, *1988* [~~1985~~], no new pension fund shall be created pursuant to this section *and boards which were covered by this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988.*

(b) Any board which provided a pension plan for its employes on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] shall place employes hired after *August* [~~July~~] 1, *1988,* [~~1985~~] in the county employes retirement system. The board shall offer employes hired on or prior to *August* [~~July~~] 1, *1988,* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 11. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established

a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments.

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and fire fighter's pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and may provide a retirement system for any of its employes, including police and fire fighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and fire fighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employes, or KRS 95.767 to 95.784 for its police and fire fighters.

(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employes unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section, *or unless the city adopts a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under section 401(a) of the internal revenue code of 1954 as amended.* If a city has adopted a retirement system but has not done so pursuant to *the options* [~~statutes~~] listed in *this subsection or in* subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employe covered thereby.

(6) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of fire fighters and assistant chief of fire fighters.

(b) Any classified employe in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of fire fighters, or assistant chief of fire fighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(7) After *August* [~~July~~] 1, *1988* [~~1985~~], no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, *or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under section 401(a) of the internal revenue code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988 shall participate in the county employes retirement system effective August 1, 1988.*

Section 12. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system, except that *mayors and members of city legislative bodies may decline to participate in the system and* city managers or other appointed local government executives who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their

return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852.

(3) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation.

(4) Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 13. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified police officer it employs, *plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs. In the case of county employes retirement system membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or non-hazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.*

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

Section 14. KRS 15.470 is amended to read as follows:

Law enforcement foundation program funds made available to local units shall be received, held and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the justice cabinet, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers, *for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement,* and for administrative costs as provided in KRS 15.450;

(2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(3), (4), and (5).

(3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 15. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified professional fire fighter it employs, *plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs. In the case of county employes retirement system membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or non-hazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.*

(2) Each qualified professional fire fighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified fire fighter shall be in addition to his regular salary.

Section 16. KRS 95A.260 is amended to read as follows:

(1) Funds made available to local governments shall be received, held and expended in accordance with the provisions of KRS 95A.200 to 95A.300, any rules and regulations issued by the commission, and the following specific restrictions:

(a) Funds provided shall be used only as a cash salary supplement to fire fighters, *and for payments to the defined benefit pension plan to which the fire fighter belongs to cover retirement costs on the cash salary supplement.*

(b) Funds provided shall be used only to compensate fire fighters who have complied with subsections (3) and (4) of KRS 95A.230.

(c) Each fire fighter shall be entitled to receive the state supplement which his qualifications brought to the local government.

(d) Funds shall not be used to supplement existing salaries or as a substitute for normal salary increases periodically due to fire fighters.

(2) This section shall not apply to funds expended pursuant to KRS 95A.240(3).

Section 17. KRS 78.535 is amended to read as follows:

(1) In the event a participating county fails to fully comply with the provisions of KRS 78.510 to 78.852, the board shall notify said county in writing of its failure to comply and shall inform said county that such failure shall be deemed to be cause for termination of the participation of said county in the system.

(2) In not less than ninety (90) days after the issuance of the notice in accordance with subsection (1) of this section, the board may terminate the participation of the county in the system unless the county has fully complied or has made satisfactory arrangements to comply. The board shall determine the effective date of such termination of participation.

(3) The county may appeal the decision of the board to the Franklin Circuit Court.

(4) Employes of the county who are members of the system on the effective date of termination of participation shall have the privilege of continuing in membership in the system until their county employment is terminated. Such employes shall continue to make contributions to the system in accordance with the provisions of KRS 78.610 and the county shall contribute employer contributions for such employes in accordance with KRS 61.565.

(5) Notwithstanding the provisions of subsection (4) of this section, the aggregate amount of the employer contributions during a fiscal year of a county whose participation has been terminated by the board shall be not less than the amount the system is required to pay in retirement allowances during such fiscal year to former employes of such county and the beneficiaries of said former employes. In determining the amount of retirement allowances, the board shall allow credit for the member contributions paid by such former employes.

(6) In lieu of termination of the participation of a county which fails to fully comply with the provisions of KRS 78.510 to 78.852, the board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund of the delinquent county as is necessary to achieve full compliance with the provisions of KRS 78.625.

Section 18. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the county employes retirement system which has formally adopted a sick leave program that is universally administered to its employes may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employe.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the board on forms prescribed by the board. The certification shall provide for equal treatment of all employes.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852.

(4) The board shall compute the cost to the retirement system of the sick leave credit of each retiring employe and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3) and (4) of this section, any agency participating in the county employes retirement system which has formally adopted a sick leave program that is universally administered to its employes may, at the time of retirement, compensate the employe for as many unused sick-leave days as the employe has accumulated and it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employe's last annual salary. Payment for unused sick-leave days shall be incorporated into the annual salary of the final year of service, if the employe and employer make the regular employe and employer contributions, respectively, on the sick leave payment.

Section 19. In order that city employes with a choice can make an informed decision on whether or not to join the county employes retirement system, Kentucky retirement systems shall conduct briefings for each affected pension system on the provisions of this Act. Each employe shall receive a written summary of the retirement benefits which the county employes retirement system offers, and each employe shall be given the opportunity to attend an oral presentation. All such presentations shall be completed by October 15, 1988, and each affected employe shall make his decision by November 1, 1988. Failure of an employe subject to the provisions of this Act to receive a written summary or to attend an oral briefing shall in no way invalidate any of the provisions of this Act.

The Committee Amendment No. 1 to **HB 398** is as follows:

Amend printed copy of **HB 398** on page 4, line 21, by inserting after the second "," the following: "*except as permitted by KRS 65.156,*"; and

on page 25, line 14, by inserting after the second "," the following: "*except as permitted by KRS 65.156,*"; and

on page 32, line 24, by inserting after the second "," the following: "*except as permitted by KRS 65.156,*".

The Committee on State Government reported **HB 3**, **HB 5**, **HB 202** with Committee Substitute attached thereto, **HB 246**, **HB 248** with Committee Amendments attached thereto, and **HB 249** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT naming and declaring May 7 of each year as Barrier Awareness Day throughout the Commonwealth.

WHEREAS, four out of five Americans will experience some form of disability during their lifetime, and there are currently 36 million Americans who are disabled; and

WHEREAS, financial and physical barriers can be overcome, but indifference emotionally blocks disabled individuals from full participation in their communities; and

WHEREAS, there are no cures for many disabilities; and

WHEREAS, no one can really understand the full implications of living with a disability unless he or she has experienced that disability personally; and

WHEREAS, there has not been developed a pill to dull the hurts and injustices inflicted upon individuals with disabilities due to a lack of understanding; and

WHEREAS, there has not been a vaccine discovered that can eradicate the widespread problems of underemployment and lack of employment for individuals with disabilities;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.135 is amended to read as follows:

(1) May 7 of each year is named and declared to be "Barrier Awareness Day" throughout the Commonwealth.

(2) August 2nd of each year is named and declared to be "Handicapped Day" throughout the Commonwealth.

Section 2. Whereas, the celebration of Barrier Awareness Day occurs on May 7, 1988, an emergency is declared to exist, and this Act shall become effective on May 7, 1988.

HB 5, AN ACT relating to honoraria.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Accept" or "accepted" means that there has been actual or constructive receipt of an honorarium and that the legislator involved exercises dominion and control over it and determines its subsequent use.

(b) "Appearance" means attendance at a public or private conference, convention, or social event, or like gathering, and the incidental conversation or remarks made at that time.

(c) "Article" means a writing other than a book, which has been or is intended to be published.

(d) "Honorarium" means a payment of money or anything of value received by a member of the Kentucky general assembly, if it is accepted as consideration for an appearance, speech, or article. The term "honorarium" does not include:

1. An award or gift of money or anything of value given:

a. Primarily in recognition of religious, charitable, scientific, educational, artistic, literary or civic achievement;

b. Based on a selection process, with established criteria, and which does not require the officer or employe to apply for or take any other action in the way of competition for the award;

c. Gratuitously, under circumstances which do not require the recipient to make an appearance or speech, or write an article as a condition for receiving the award; and *d. Which is not made to serve in place of an honorarium.*

2. A gift of real or personal property which is unsupported by consideration, and is not made to serve in place of an honorarium.

3. A stipend for services on a continuing basis, including a salary or other compensation paid by news media for commentary on events other than the campaign of the individual compensated.

4. Payment for or provision of actual travel and subsistence, if no reimbursement is made by the Commonwealth of Kentucky.

(e) "Speech" means an address, oration, or other form of oral presentation, regardless of whether presented in person, recorded, or broadcast over the media.

(2) The provisions of this section shall not apply to any appearance, speech or article in which a legislator is participating or writing as a member of his profession.

(3) All legislators shall be required to make an annual report to the legislative research commission disclosing all honoraria received during the calendar year. Such report shall be made at the close of each calendar year, and shall include:

(a) The source of the honorarium;

(b) The activities in which the legislator participated; and

(c) The dollar amount.

(4) Any violation of the provisions of this section shall be reported to the ethics board of the general assembly.

HB 202. AN ACT relating to the use of certified mail for special ballots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

(1) All requests for an application for a special ballot and all applications for a special ballot shall be transmitted only by mail or in person as specifically provided by this section. The county clerk shall provide, but only by the method provided by this section, a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for a special ballot as provided in this section and who is properly registered as stated in his application. Application for a special ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. A single application shall entitle a voter who qualifies to receive two (2) ballots, as provided by this section, to receive both such ballots. All requests for an application for a special ballot and all applications for a special ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a special ballot to the voter who appears in person to request such application, or shall mail such application to a voter who requests such application by mail. Such application shall be restricted to use of the voter or the spouse, parents or dependent children of the voter; and

(b) Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may appear for an absentee ballot by means of the federal post-card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (4) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting.[~~;~~] *Ballots mailed to a destination within the fifty (50) states shall be sent by certified mail, with no return receipt required. The United States Postal Service form, "Receipt for Certified Mail," PS Form 3800, shall be completed for each ballot mailed and shall be stamped by the postal service when each ballot is mailed.*

(a) Except as otherwise provided by this subsection, special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots; and special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request;

(b) At any general election at which names of candidates to federal office shall appear on the ballot, certain voters shall be mailed only one (1) ballot, which shall include the names of all candidates for which such voters are entitled to vote. Voters to receive only one (1) ballot shall be those voters who shall be:

1. Outside the fifty (50) states on the day of the election but whose request for a special ballot shall be received subsequent to the printing of the ballot containing the names of all candidates for which such voters are entitled to vote; and

2. Within the fifty (50) states on the day of the election; and

(c) At any general election for which separate ballots shall be printed for candidates for election to federal office, voters who shall be outside the fifty (50) states on the day of the election and who request a special ballot prior to the printing of the ballot containing the names of candidates exclusive of candidates to federal office, shall receive two (2) ballots. The first ballot shall contain the names of candidates to federal office, and the second shall contain the names of all candidates for which the voter is entitled to vote, exclusive of candidates to federal offices.

(4) The clerk shall cause ballots to be printed for each primary or general election:

(a) Each primary, fifty (50) days prior to the primary;

(b) Each general election:

1. Names of candidates to federal office and no others, fifty (50) days prior to the election;

2. Names of the remaining candidates, thirty-eight (38) days prior to the election; and

3. Names of all candidates, thirty-eight (38) days prior to the election.

(5) The outer envelope shall bear the words "Special Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application *and the postal form required by subsection (3) of this section* for twenty-two (22) months after the election.

(6) A list of persons to whom special ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be

posted at the polling place throughout the voting hours on election day.

(7) Any person who has been mailed a special ballot but who shall be in his voting precinct on election day may cancel his special ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his special ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent special ballots, and the voter may vote in the precinct in which he is properly registered.

The Committee Substitute to **HB 202** is as follows:

HB 202. AN ACT relating to the use of certified mail for special ballots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

(1) All requests for an application for a special ballot and all applications for a special ballot shall be transmitted only by mail or in person as specifically provided by this section. The county clerk shall provide, but only by the method provided by this section, a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for a special ballot as provided in this section and who is properly registered as stated in his application. Application for a special ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. A single application shall entitle a voter who qualifies to receive two (2) ballots, as provided by this section, to receive both such ballots. All requests for an application for a special ballot and all applications for a special ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a special ballot to the voter who appears in person to request such application, or shall mail such application to a voter who requests such application by mail. Such application shall be restricted to use of the voter or the spouse, parents or dependent children of the voter; and

(b) Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may appear for an absentee ballot by means of the federal post-card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (4) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting.[~~:~~] *The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and same shall be stamped by the postal service when the ballots are mailed.*

(a) Except as otherwise provided by this subsection, special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots; and special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request;

(b) At any general election at which names of candidates to federal office shall appear on the ballot, certain voters shall be mailed only one (1) ballot, which shall include the names of all candidates for which such voters are entitled to vote. Voters to receive only one (1) ballot shall be those voters who shall be:

1. Outside the fifty (50) states on the day of the election but whose request for a special ballot shall be received subsequent to the printing of the ballot containing the names of all candidates for which such voters are entitled to vote; and

2. Within the fifty (50) states on the day of the election; and

(c) At any general election for which separate ballots shall be printed for candidates for election to federal office, voters who shall be outside the fifty (50) states on the day of the election and who request a special ballot prior to the printing of the ballot containing the names of candidates exclusive of candidates to federal office, shall receive two (2) ballots. The first ballot shall contain the names of candidates to federal office, and the second shall contain the names of all candidates for which the voter is entitled to vote, exclusive of candidates to federal offices.

(4) The clerk shall cause ballots to be printed for each primary or general election:

(a) Each primary, fifty (50) days prior to the primary;

(b) Each general election:

1. Names of candidates to federal office and no others, fifty (50) days prior to the election;

2. Names of the remaining candidates, thirty-eight (38) days prior to the election; and

3. Names of all candidates, thirty-eight (38) days prior to the election.

(5) The outer envelope shall bear the words “Special Ballot” and the address and official title of the county clerk and shall provide space for the voter’s signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter’s signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter’s address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter’s signature. The inner envelope shall be blank. The clerk shall retain the application *and the postal form required by subsection (3) of this section* for twenty-two (22) months after the election.

(6) A list of persons to whom special ballots are mailed shall be posted in the clerk’s office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.

(7) Any person who has been mailed a special ballot but who shall be in his voting precinct on election day may cancel his special ballot and vote in person if he appears at the county clerk’s office at least seven (7) days prior to election day and returns his special ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words “Cancelled because voter appeared to vote in person.” Sealed envelopes so marked shall not be opened. The clerk shall remove the voter’s name from the list of persons who were sent special ballots, and the voter may vote in the precinct in which he is properly registered.

HB 246, AN ACT relating to holidays for state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:

(a) The 1st day of January plus one extra day;

(b) The 3rd Monday in February;

(c) Good Friday, one-half day;

(d) The last Monday in May;

(e) The 4th day of July;

(f) The 1st Monday in September;

(g) Presidential election day as required under KRS 2.190;

(h) *The 11th day of November (Veterans Day);*

(i) The 4th Thursday in November plus one extra day;

(j)[~~(i)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), (h) and (i) of subsection (1), the governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

HB 248. AN ACT relating to payment of a bonus to certain veterans who served during the Vietnam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

WHEREAS, the electorate of the Commonwealth of Kentucky, at the regular election on November 3, 1959, approved the payment of a cash bonus to qualified veterans of the Spanish American War, World War I, World War II, and the Korean conflict as an expression of appreciation for their service to the United States of America; and

WHEREAS, many citizens of the Commonwealth served at great personal sacrifice in the armed forces of the United States during the Vietnam conflict; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky finds it appropriate to express to those citizens the gratitude of all of the citizens of the Commonwealth by the payment of a bonus to all veterans qualified hereunder who served in the armed forces of the United States in the Vietnam conflict;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) It is hereby found, determined and declared that the citizens of the Commonwealth who served in the armed forces during the Vietnam conflict performed a public service for the United States of America and the Commonwealth and that the payment of the Vietnam veterans' bonus, as provided in this Act, promotes the public good by rewarding the public service rendered by such individuals and by encouraging future public service by citizens of the Commonwealth.

(2) It is hereby found, determined and declared as a legislative finding of fact that the general welfare and well-being of the citizens of the Commonwealth is dependent upon the economy of the Commonwealth and

the national economy and that the payment of the Vietnam veterans' bonus, by encouraging greater consumer expenditures, will stimulate growth in the national and local economies, thereby increasing employment of residents of the Commonwealth and generating additional tax revenues to the Commonwealth.

(3) It is hereby found, determined and declared that a bonus shall be paid by the Commonwealth of Kentucky in the amounts and to the persons determined in accordance with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Department of military affairs" means the office of the adjutant general, Commonwealth of Kentucky;

(2) "Administrator" means the individual designated by the adjutant general to carry out the responsibilities of this Act;

(3) "Armed forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard, including the reserve components thereof on active duty, and shall not include the merchant marine;

(4) "Qualified Vietnam veteran" means any person who:

(a) Served in the armed forces of the United States for a period of ninety (90) days or more (exclusive of time spent AWOL, or in penal confinement as a result of a sentence imposed by court-martial) for any period from August 5, 1964 to May 7, 1975, inclusive, or served in the armed forces of the United States within the South East Asia theater of operations for any period from February 1, 1955 to August 4, 1964, inclusive, and was awarded the Vietnam Service Medal;

(b) Has been released, separated or discharged from the armed forces under honorable conditions;

(c) Was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto;

(d) Served at least ninety (90) days active duty, unless the duty was earlier terminated for medical reasons determined to be service-connected by the armed forces or the veterans' administration; and

(e) Served during the period of eligibility as evidenced by separation papers or discharge from the United States armed forces.

(5) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at such time of entry. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the department of defense of the United States, or any official record thereof in the files of the veterans' administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(6) "Resident," in any context other than as in subsection (5) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate;

(7) "Beneficiary" means in this order, widow, child or children (sharing equally), mother, father, and no other;

(8) (a) "Widow" means a woman who was the wife of a Vietnam veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female Vietnam veteran at the time of her death;

(9) "Child" means a person:

(a) Who is under the age of eighteen (18); or

(b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-three (23) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a step-child who is a member of a Vietnam veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

(10) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified Vietnam veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(11) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified Vietnam veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(12) "In the continental United States" means any place in the District of Columbia and the States of the United States which are on the North American continent, exclusive of Alaska;

(13) "Outside the continental United States" means any place elsewhere than as defined in subsection (12) of this section;

(14) "Bonus" and "Vietnam veteran's bonus" mean the compensation authorized by this Act;

(15) "Bonus claim" means a claim or potential claim for a Vietnam veteran's bonus; and

(16) "Claimant" means one who seeks to obtain payment of a bonus claim.

SECTION 3. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No bonus shall be paid to any member of the armed forces of the United States who did only civilian work at civilian pay, who has received from another state a bonus or compensation of a like nature as is provided by this Act, or who received the Kentucky veterans' bonus under the provisions of Chapter 48, Acts of the Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Every person determined by the administrator to be a qualified Vietnam veteran shall be paid the sum of fifteen dollars ($15.00) for each month and major fraction of a month of active duty, in the armed forces, not to exceed in all the sum of three hundred dollars ($300); and the sum of twenty-five dollars ($25.00) for each month and major fraction of a month of such service which is qualifying for the Vietnam Service Medal, subject to an aggregate limit for all service in the sum of five hundred dollars ($500). Any qualified Vietnam veteran who was medically evacuated from Vietnam shall receive the sum of five hundred dollars ($500.00), this sum to be in lieu of any other bonus for which said veteran may qualify under the provisions of this Act.

(2) If a person determined to have been a qualified Vietnam veteran shall be deceased at the time payment of the bonus would otherwise be made to him, the amount of his bonus shall be paid to the first surviving beneficiary, if any, according to the order of priority defined in Section 2(7) of this Act and if there be no surviving beneficiary,

the bonus of such veteran shall lapse, and no payment thereof shall be made.

(3) A beneficiary (as defined in Section 2, subsections (7), (8), (9), (10), and (11) of this Act) of a person killed in the line of duty while serving in the armed forces of the United States during the period of eligibility, or who died of service-connected injury sustained while so serving, and who would otherwise have qualified for the bonus provided in subsection (1) of this section, shall be paid three hundred dollars ($300) if no part of the total service during the period was served outside the Continental United States or five hundred dollars ($500) if any part of the total service during the period was served outside the Continental United States. The provisions of subsection (1) of this section and the minimum period of service for entitlement to a bonus as established by Section 2(4) of this Act shall not apply to these beneficiaries. However, this exception does not waive the respective maximums of three hundred dollars ($300) or five hundred dollars ($500) for each veteran, person killed in the line of duty while on active duty in the armed forces, or person who died as a result of service-connected injury sustained while on active duty in the armed forces. Payment shall be made to a beneficiary in the order of priority defined in Section 2(7) of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The department of military affairs, Commonwealth of Kentucky, shall administer the provisions of this Act and shall:

(1) Prepare and make available forms on which applications for the bonus shall be made;

(2) Employ such additional personnel as may be required for orderly and expeditious administration;

(3) Promulgate all rules and regulations required for the effective administration of this Act; and

(4) Report annually to the governor and the legislative research commission within sixty (60) days after the end of each fiscal year during its administration of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

All applications for the bonus shall be submitted to the adjutant general, Commonwealth of Kentucky, in writing, upon forms made available for that purpose, and shall be accompanied by such documentary evidence as prescribed by appropriate regulations. Every application shall be certified under the penalties of perjury, and shall contain representations of the claimant (or, if he shall have been adjudged incompetent, or be an infant, of his committee or guardian), that:

(1) The facts therein stated are true to the best of his knowledge and belief;

(2) All documents submitted in support of the application are believed by the claimant to be genuine originals or copies, as the case may be, and that the claimant has no knowledge that the document has been superseded or cancelled;

(3) The claimant has not received from another state a bonus or compensation of a like nature as provided by this Act;

(4) The claimant has not received the Kentucky veterans' bonus provided under Chapter 48, Acts of the Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly;

(5) The claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing and tendering the application; and

(6) The claimant has knowledge of the final and forfeiture provisions of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) No application shall be filed with or sent to the adjutant general before the 1st day of September, 1988.

(2) No application may be filed with or sent to the administrator after the thirty first day of March, 1990; but if an application be sent by mail, the adjutant general shall receive it if the post-mark on the envelope shows date and time of mailing at or before midnight, central standard time, on or before the thirty first day of March, 1990.

(3) Applications tendered to the adjutant general otherwise than as provided in subsections (1) and (2) of this section shall not be eligible for consideration under this Act and shall not be accepted. Each such application received by mail shall be returned to the sender, if a return address be given, together with notification of the reason for its return.

SECTION 8. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No claimant shall be entitled to an oral hearing as a matter of right; but the adjutant general may in his discretion order a hearing in any case presenting unusual circumstances, or where it appears that documentary evidence of any material fact cannot reasonably be obtained, or where the claim cannot otherwise adequately be determined. The adjutant general may investigate any matter which in his judgment is not adequately proven, or which shows or raises an inference of fraud; and may require submission of supplementary proof.

SECTION 9. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

A hearing ordered by the adjutant general shall be conducted by a single person designated by the adjutant general. Formalities of judicial procedure and proof may be waived. No stenographic transcript of the proceedings shall be made except when specifically authorized by the adjutant general, and in the absence of such authorization the hearing officer shall submit to the adjutant general his written summary of the proceedings. There shall be no right to written or oral argument; but the adjutant general may, in his discretion, authorize either.

SECTION 10. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The burden of proving to the satisfaction of the adjutant general that a bonus is payable shall in all cases be upon the claimant.

SECTION 11. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The adjutant general shall make prompt determination that each application is approved or disapproved for payment of a bonus; and if approved, shall determine the amount to be paid according to the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is disapproved, the adjutant general shall send a notice of such decision to the claimant by mail at the address shown in the application. The notice shall be in such form as the adjutant general may determine, shall contain a designation of the reason for disapproval, shall inform the claimant of his right to seek review, shall have attached such form of request for review as the adjutant general may prescribe, and shall give information as to procedure for review.

(2) Application for review of a disapproval shall be made only on the forms prescribed, and shall be received in the designated office not later than the closing hour in the thirtieth (30th) day after the day upon which the notice of disapproval is mailed, or be forever barred.

(3) Upon receiving an application for review, the administrator shall transmit the same, together with the original application and all papers in the case, to the board of review, hereinafter created.

(4) The board of review shall promptly consider the same evidence which was available to the administrator, and shall promptly enter in the case file its decision either finally affirming the administrator's decision, or finally determining the claim and the amount thereof.

(5) The board of review shall send a notice of its decision to the claimant by registered mail, and shall return the case file to the administrator. The decision of the board of review shall be a final determination of the claim shown in the application.

SECTION 13. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

If the administrator shall disapprove any claim, or if the decision of the board of review be affirmance of the administrator's disapproval of the claim:

(1) No payment of a bonus shall be made,

(2) The administrator, upon receiving advice of the decision, shall note the same in a permanent book or record in his office; shall forthwith return to the claimant the copies of any official records submitted in support of the application; shall finally close the claim file; and may destroy all other papers except the application.

SECTION 14. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of finance and administration the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the commissioner of revenue, who shall promptly ascertain from the records of his department whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the commissioner of revenue shall within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of finance and administration; and if no advice of tax delinquency is received by the secretary of finance and administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of this Act, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the state treasury for a check in payment.

(c) Upon receipt of such warrant the state treasurer shall issue a check in accordance therewith payable from funds made available in accordance with this Act, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of finance and administration shall, within the allowed time, receive advice from the commissioner of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of finance and administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the commissioner of revenue of the amount set-off against the bonus, which advice shall be noted by the commissioner of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the commissioner shall draw a warrant upon the state treasury for a check in the amount of the remainder, and upon receiving such check from the state treasurer shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the commissioner of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the commissioner of revenue.

SECTION 15. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Claims for payment of a bonus shall not be assignable before or after approval thereof; and any attempted or purported assignment received by or tendered to any officer of the Commonwealth shall be void, need not be acknowledged or returned, and may be disregarded.

(2) Payments of the bonus shall be exempt from all taxation by the Commonwealth, its political subdivisions and taxing districts.

(3) No claim for payment of a bonus and no payment made by the Commonwealth under this Act shall give rise to a cause of action against the Commonwealth or any of its officers, agents, or employes, and no claim for payment shall be subject to attachment, levy, garnishment or seizure by or under any legal or equitable process whatever; but this provision shall not extend exemption from legal process to the proceeds of any bonus payment after the same has been received from the Commonwealth.

(4) The Commonwealth does not consent to be sued in any court with regard to any matter connected with or arising out of claims for payment of the bonus herein authorized.

SECTION 16. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Vietnam Veterans' Bonus Board of Review." The governor shall designate a chairman and a secretary from among the membership.

(2) Three (3) members and no more shall constitute a board of review, and shall by concurrence of two (2) members decide any claim which comes before the board in the manner provided in this Act. The chairman of the board shall designate three (3) members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated fifty dollars ($50.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eighteen cents (18) per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three (3) members designated for that purpose. In every case the board shall either affirm the decision of the administrator, or determine that a Vietnam veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made shall be signed by at least two (2) of the three (3) members designated to decide the claim; and upon concurrence of two (2) members a decision shall be final and not subject to reconsideration.

(5) When, after April 1, 1990, the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the governor in writing. The governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

SECTION 17. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person who charges or collects or attempts to charge or collect either directly or indirectly, any fee or other compensation for assisting in any manner a person seeking to obtain payment of a bonus under this Act, shall be fined not more than five hundred dollars ($500) or imprisoned in the county jail for a term of not more than six (6) months, or both; but this provision is not intended to prohibit:

(1) Collection by public officers of statutory fees for providing authenticated copies of public records, or

(2) The giving of assistance or advice to claimants by any bona fide veterans' organization, civic organization, institution, public or private body, or person, through one (1) or more persons compensated from the funds of such organization, institution, or public or private body or person, if no fee or charge therefor is collected from the asserted claimant.

SECTION 18. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Whoever makes any false or fraudulent statement of a material fact in any application, affidavit, certificate or document submitted or tendered for the purpose of obtaining payment of a bonus under this Act, shall be fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for a term of not more than two (2) years, or both.

SECTION 19. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person conspiring to obtain payment of a fraudulent claim for a bonus under this Act, or conspiring to defraud one who receives payment or has a bona fide claim for payment of a bonus, shall be fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for not more than two (2) years, or both.

SECTION 20. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person convicted of any offense denounced in Sections 17, 18, and 19 of this Act shall forfeit his or her right, if any, to receive any payment authorized by this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Funds for the payment of the Vietnam veterans' bonus, the administration of this Act and purposes related thereto may be provided from the proceeds of revenue bonds issued and sold for such purpose by the state property and buildings commission pursuant to its powers under KRS 56.450. The department of military affairs is hereby authorized to apply to the state property and buildings commission for such revenue bond issue or issues in such amounts and at such times as it deems desirable or necessary for such purpose. Revenue bonds issued pursuant hereto shall be solely payable from and secured by revenues paid by the department of military affairs pursuant to a financing agreement between the state property and buildings commission and the department of military affairs and derived from the biennial appropriations made for such purpose, if any, and any other available funds and shall otherwise be as provided in KRS 56.450.

SECTION 22. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) The department of military affairs shall, from time to time, prepare estimates of the amount of money anticipated to be required for the payment of the Vietnam veterans' bonus and the times when such moneys shall be required to be available for the payment of bonus claims.

(2) In the preparation of such estimates the department of military affairs is authorized to consult with and solicit assistance from the finance and administration cabinet and such cabinet is hereby authorized and directed to render such assistance as is requested by the department of military affairs.

(3) Advice of such estimates shall be set forth in the application of the department of military affairs to the state property and buildings commission under which revenue bonds are requested to be issued, with the direction that such bonds be issued and sold in such manner as to provide the required sums of money at the proper times.

SECTION 23. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) All revenue bonds issued under the provisions of this Act shall state that they are issued pursuant to this Act and to the provisions of KRS Chapters 56 and 58, as applicable. All revenue bonds issued under the provisions of this Act and the interest thereon shall be exempt from all taxation by the Commonwealth and its political subdivisions. All revenue bonds issued under the provisions of this Act shall have and are hereby declared to have all the incidents of negotiable instruments.

(2) The state property and buildings commission shall, in each resolution authorizing the issuance of revenue

bonds under the provisions of this Act, determine the following:

(a) The maturity date or dates of the revenue bonds;

(b) The manner in which interest shall be paid thereon;

(c) The terms of redemption applicable thereto; and

(d) Such other particulars of the revenue bonds not contrary to law or inconsistent with this Act.

(3) Notwithstanding the provisions of KRS Chapters 56 and 58, revenue bonds issued under the provisions of this Act may be sold by the state property and buildings commission, and the interest rates to be borne by such bonds shall be determined, in such manner as the state property and buildings commission shall decide, including, without limitation, sale by private negotiation.

(4) No consent of any department, division, commission, board, bureau, or agency of the Commonwealth other than the proceedings, conditions and other things which are specifically required by this Act and KRS Chapters 56 and 58, shall be required for the issuance of revenue bonds under the provisions of this Act.

SECTION 24. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) The proceeds of all revenue bonds issued and sold under the provisions of this Act, other than money required to pay the costs of the issuance of such revenue bonds, shall be deposited in the state treasury and shall be segregated in a special fund designated as the "Vietnam Veterans' Bonus Fund." Moneys in the Vietnam Veterans' Bonus Fund shall be disbursed from time to time upon requisition by the administrator solely for the payment of approved bonus claims and for the costs of the administration of this Act.

(2) Any moneys remaining in the Vietnam Veterans' Bonus Fund after the payment of all approved bonus claims and outstanding administrative costs shall be disposed of in accordance with the terms of the resolution of the state property and buildings commission authorizing the revenue bonds issued pursuant hereto.

Section 25. There is hereby appropriated to the department of military affairs, for fiscal year 1988-89, the sum of one million five hundred thousand dollars ($1,500,000) for use specifically in the administration of this Act. The appropriated funds shall be paid from the proceeds of revenue bonds issued under the provisions of this Act; any unexpended funds shall not lapse but shall be carried forward into fiscal year 1989-90.

The Committee Amendment No. 1 to **HB 248** is as follows:

Amend printed copy of **HB 248** on page 3, line 18, to remove the comma after the word "inclusive" and insert in lieu thereof a semicolon; and

On page 3, line 21, to remove the comma after the word "inclusive".

The Committee Amendment No. 2 to **HB 248** is as follows:

Amend printed copy of **HB 248** on page 7, to delete line 23 and insert in lieu thereof "*Persons who served in the armed forces from August 5, 1964 to May 7, 1975 and did not receive the Viet Nam Service Medal.*"

and on page 7, line 24, to delete the words "*be a qualified Viet Nam veteran*".

HB 249. AN ACT relating to the issuance of revenue bonds for financing veterans' nursing homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

For the purpose of financing the costs of the construction or renovation of Kentucky state veterans' nursing *homes and all proper costs necessary or incidental thereto, the department of military affairs is hereby authorized to apply to the state property and buildings commission for the issuance of revenue bonds and to enter into such leases or other financing agreements in respect of the Kentucky state veterans' nursing homes as are necessary or desirable to provide revenues to amortize and secure such revenue bonds.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) Revenue bonds issued under the provisions of this Act shall state that they are issued pursuant to this Act and to the provisions of KRS Chapters 56 and 58, as applicable. Revenue bonds issued under the provisions of this Act and the interest thereon shall be exempt from all taxation by the Commonwealth and its political subdivisions. Revenue bonds issued under the provisions of this Act shall have and are hereby declared to have all the incidents of negotiable instruments.

(2) The state property and buildings commission, in each resolution authorizing the issuance of revenue bonds under the provisions of this Act, shall determine the following:

(a) The maturity date or dates of the revenue bonds;

(b) The manner in which interest shall be paid thereon;

(c) The terms of redemption applicable thereto; and

(d) Such other particulars of the revenue bonds not contrary to law or inconsistent with this Act.

(3) Notwithstanding the provisions of KRS Chapters 56 and 58, revenue bonds issued under the provisions of this Act may be sold by the state property and buildings commission, and the interest rates to be borne by such bonds shall be determined, in such manner as the state property and buildings commission shall decide, including, without limitation, sale by private negotiation.

(4) No consent of any department, division, commission, board, bureau, or agency of the Commonwealth other than the proceedings, conditions and other things which are specifically required by this Act and KRS Chapters 56 and 58, shall be required for the issuance of revenue bonds under the provisions of this Act.

The Committee on Agriculture and Small Business reported **HCR 6** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 6, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, loss of the program would cause failure of many farms and businesses, decreases in land values, the default of loans and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems which threaten the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping resolve those problems; and

WHEREAS, the Task Force has provided leadership and unified the tobacco states in efforts to resolve the tobacco program's problems and the state must continue that leadership role: and

WHEREAS, the program remains in jeopardy because of imports, reductions in farmers' quotas, losses in market shares in the United States and foreign markets, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco program.

The Committee on Health and Welfare reported **HB 87** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 87. AN ACT relating to children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the natural family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently committed to the cabinet; and

(b) Placed in a foster family home or private child-caring or child-placing facility but remains under the supervision of the cabinet;

(5) "Local citizen review board" means a board which provides periodic permanency reviews of children committed to the cabinet and in foster care;

(6) "Permanence" means a relationship between a child and an adult which will last a lifetime, providing commitment and continuity in the child's relationships and having a sense of belonging;

(7) *"Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available in the community which are necessary to enable the child to safely live at home;*

(8) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(9)[~~(8)~~] "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(10)[~~(9)~~] "State citizen review board" means a board created by KRS 620.310.

Section 2. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency, or the Kentucky state police, the cabinet or its designated representative, the commonwealth's attorney or the county attorney, by telephone or otherwise. *The fact that a person notifies a superior or other co-worker of the suspected dependency, neglect or abuse does not relieve that person of the requirement to also make a report to the proper authorities for investigation.*

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the commonwealth or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

Section 3. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report pursuant to KRS 620.030(1) or (2), the county attorney, the commonwealth's attorney, the local law enforcement agency or Kentucky state police, if they are the recipients of the report, shall forthwith notify the cabinet or its designated representative and the commonwealth or county attorney of the receipt of the report and its contents and, if the report alleges abuse, they shall investigate the matter and within forty-eight (48) hours make a written report to the cabinet or its designated representative and the commonwealth or county attorney concerning the action which has been taken on the matter.

(2) Upon the receipt of a report of alleged abuse pursuant to KRS 620.030(1) or (2) the cabinet or its designated representative, if it is the recipient of the report, shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and shall investigate the matter and within forty-eight (48) hours make a written report to the local law enforcement agency or the Kentucky state police and the county or commonwealth's attorney concerning the action which has been taken on the matter. The cabinet also shall investigate reports of alleged dependency and neglect but need not notify the local law enforcement agency or Kentucky state police or county attorney or commonwealth's attorney of such reports. *If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian or other person exercising custodial control or supervision of a child, it may investigate the report and shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and they shall investigate the matter.*

(3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the

judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer;

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours;

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if the officer has reasonable cause to believe that there exists an imminent danger. The officer shall, within twelve (12) hours of taking the child into such protective custody, request the court to issue an emergency custody order;

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

Section 4. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, assault or the infliction of fear of imminent physical injury, serious physical injury, or assault between family members; and

(2) "Family member" means a spouse, parent, *a member of an unmarried couple which has a child in common,* child, stepchild or any other person related by consanguinity or affinity within the second degree.

Section 5. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010.

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, parent, grandparent, child, [~~or~~] stepchild *or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple.* Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

Section 6. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the cabinet for human resources;

(2) "Cabinet" means the cabinet for human resources;

(3) "Department" means the department for social services of the cabinet for human resources;

(4) "Adult" means a person eighteen (18) years of age or older or a married person *or a party of an unmarried couple with a child in common* without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse *or other party of an unmarried couple with a child in common,* is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse *or other party of an unmarried couple with a child in common* or deprives a spouse *or such other party* of reasonable services necessary to maintain the health and welfare of his spouse *or such other party;*

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another; and

(13) "Court" means the circuit court or the district court if no judge of that circuit court is present

in the county.

Section 7. KRS 213.190 is amended to read as follows:

(1) The cabinet for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such cabinet as provided by law when the cabinet is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources which shall not exceed four dollars ($4.00) for a copy of a *marriage, divorce* [~~death~~] or other certificate or search of the files, if no copy is found. The applicant shall pay a fee of five dollars ($5.00) for a copy of a birth certificate, one dollar ($1.00) of which shall be collected for use by the cabinet for human resources for the sole purpose of contracting for the operation of private, not for profit self-help groups for parents who want to prevent or cease their physical, sexual or mental abuse of their children. *The applicant shall pay a fee of eight dollars ($8.00) for a copy of a death certificate, four dollars ($4.00) of which shall be collected by the office of the attorney general to be designated to the Kentucky Child Sexual Abuse and Exploitation Prevention Board for the sole purpose of contracting for the operation of private, not for profit groups to provide sexual abuse and exploitation prevention programs.*

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

(4) On January 1 and July 1 of each year, beginning in 1985, the cabinet for human resources shall furnish to each county clerk the name, address, birth date, sex, race and social security number of each resident of that county who has died since the date the previous data was submitted. The data submitted on January 1, 1985, shall include deaths since July 1, 1984. Such data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing such lists.

Section 8. There is hereby appropriated to the Kentucky Child Sexual Abuse and Exploitation Prevention Board out of the General Fund in the State Treasury the sum of one hundred fifty thousand dollars ($150,000) for each of the 1988-89 and 1989-90 fiscal years.

The Committee Substitute to **HB 87** is as follows:

HB 87, AN ACT relating to children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the natural family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently committed to the cabinet; and

(b) Placed in a foster family home or private child-caring or child-placing facility but remains under the supervision of the cabinet;

(5) "Local citizen review board" means a board which provides periodic permanency reviews of children committed to the cabinet and in foster care;

(6) "Permanence" means a relationship between a child and an adult which will last a lifetime, providing commitment and continuity in the child's relationships and having a sense of belonging;

(7) *"Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available in the community and in accordance with the state plan for Public Law 96-272 and which are necessary to enable the child to safely live at home;*

(8) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(9)[~~(8)~~] "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(10)[~~(9)~~] "State citizen review board" means a board created by KRS 620.310.

Section 2. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency, or the Kentucky state police, the cabinet or its designated representative, the commonwealth's attorney or the county attorney, by telephone or otherwise. *The fact that a person notifies a superior or other co-worker of the suspected dependency, neglect or abuse does not relieve that person of the requirement to also make a report to the proper authorities for investigation.*

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the commonwealth or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

Section 3. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report pursuant to KRS 620.030(1) or (2), the county attorney, the commonwealth's attorney, the local law enforcement agency or Kentucky state police, if they are the recipients of the report, shall forthwith notify the cabinet or its designated representative and the commonwealth or county attorney of the receipt of the report and its contents and, if the report alleges abuse, they shall investigate the matter and within forty-eight (48) hours make a written report to the cabinet or its designated representative and the commonwealth or county attorney concerning the action which has been taken on the matter.

(2) Upon the receipt of a report of alleged abuse pursuant to KRS 620.030(1) or (2) the cabinet or its designated representative, if it is the recipient of the report, shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and shall investigate the matter and within forty-eight (48) hours make a written report to the local law enforcement agency or the Kentucky state police and the county or commonwealth's attorney concerning the action which has been taken on the matter. The cabinet also shall investigate reports of alleged dependency and neglect but need not notify the local law enforcement agency or Kentucky state police or county attorney or commonwealth's attorney of such reports. *If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and they shall investigate the matter.*

(3) *School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.*

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer;

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours;

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if the officer has reasonable cause to believe that there exists an imminent danger. The officer shall, within twelve (12) hours of taking the child into such protective custody, request the court to issue an emergency custody order;

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

Section 4. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, assault or the infliction of fear of imminent physical injury, serious physical injury, or assault between family members; and

(2) "Family member" means a spouse, *including a former spouse,* parent, *a member of an unmarried couple which has a child in common,* child, stepchild or any other person related by consanguinity or affinity within the second degree.

Section 5. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010.

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, *former spouse,* parent, grandparent, child, [~~or~~] stepchild *or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple.* Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

Section 6. KRS 403.765 is amended to read as follows:

If, following the entry of an order authorized by KRS 403.740 or 403.750, the petitioner or the adverse party initiate an action in the circuit court under the provisions of this chapter, the orders of the circuit court shall, upon service of same, take precedence over orders issued pursuant to KRS 403.740 or 403.750. *Orders of the district court shall remain in effect and shall be enforced in either district or circuit court.*

Section 7. KRS 213.190 is amended to read as follows:

(1) The cabinet for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such cabinet as provided by law when the cabinet is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources which shall not exceed four dollars ($4.00) for a copy of a *marriage, divorce* [~~death~~] or other certificate or search of the files, if no copy is found. The applicant shall pay a fee of five dollars ($5.00) for a copy of a birth certificate, one dollar ($1.00) of which shall be collected for use by the cabinet for human resources for the sole purpose of contracting for the operation of private, not for profit self-help groups for parents who want to prevent or cease their physical, sexual or mental abuse of their children. *The applicant shall pay a fee of eight dollars ($8.00) for a copy of a death certificate, four dollars ($4.00) of which shall be collected by the office of the attorney general to be designated to the Kentucky Child Sexual Abuse and Exploitation Prevention Board for the sole purpose of contracting for the operation of private, not for profit groups to provide sexual abuse and exploitation prevention programs.*

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

(4) On January 1 and July 1 of each year, beginning in 1985, the cabinet for human resources shall furnish to each county clerk the name, address, birth date, sex, race and social security number of each resident of that county who has died since the date the previous data was submitted. The data submitted on January 1, 1985, shall include deaths since July 1, 1984. Such data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing such lists.

Section 8. There is hereby appropriated to the Kentucky Child Sexual Abuse and Exploitation Prevention Board out of the General Fund in the State Treasury the sum of one hundred fifty thousand dollars ($150,000) for each of the 1988-89 and 1989-90 fiscal years.

Representative Allen moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Allen moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION urging the Governor not to make financial reductions in certain agencies or programs when balancing the state's General Fund budget for the current fiscal year and for future bienniums.

WHEREAS, the financial resources of the General Fund are reported to be less than estimated; and

WHEREAS, the Governor of the Commonwealth of Kentucky will take action to bring into balance the expenses and receipts of the state's General Fund; and

WHEREAS, in so balancing the budget of the Commonwealth it is assumed that many valuable programs may be curtailed or reduced;

NOW THEREFORE,

Be it resolved by the House of Representative of the Commonwealth of Kentucky:

Section 1. That this body urge the Governor of this Commonwealth not to transfer any funds from agency funds held in trust by the Department of Fish and Wildlife Resources, the Kentucky Law Enforcement Foundation Program, the Teachers' Retirement System and other public employe retirement systems, and that this body urge the Governor of this Commonwealth not to solve the state's current financial crisis by charging the state's road fund for services rendered by employees normally paid from the state's general fund and that these resources never be used in future bienniums in an effort to balance the General Fund budget.

Section 2. That a copy of this resolution be sent to the Governor.

Representative Stumbo moved that **HR 36** be laid on the table.

On the roll call the vote was yeas 50-Adkins, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, M. Brown, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Cyrus, Deskins, Donnermeyer, Farrow, Gregory, Hancock, Hourigan, Jackson, A. Jones, R. Jones, Kerr, Lear, LeMaster, Little, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Nett, O'Brien, Pritchett, Rapier, Richards, B. Richardson, Scorsone, Seum, R. Smith, Stumbo, Worthington, Yates. Nays 30-Ackerson, Adams, Allen, Altman, J. Brown, Casebier, Curd, Ford, Freibert, Guenthner, J. Harper, K. Harper, Heleringer, Hoover, Keith, Layman, Lefevers, Lile, Napier, Noland, Northup, Preston, Reinhardt, Robinson, Siler, Strong, Todd, Turner, Walker, Will.

The motion that **HR 36** be laid on the table was adopted.

Calendar

SB 16, **HB 199**, **HB 359**, **HB 338**, **HB 402** and **HB 222** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representation Stumbo moved that **HB 62** be taken from Consent Orders of the Day and placed in Regular Orders of the Day. Agreed.

HB 62 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 62** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See January 21, 1988, roll call on **HB 62** - Appendix A.)

HB 62 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 62** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for ten minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introductions, Committee Reports and Postings. Agreed.

Report of Committees

The Committee on Rules reported **HB 337, HB 199, HB 222, HB 338, HB 402, SB 16** and **HB 359** have been posted for passage in Orders of the Day January 22, 1988.

Introductions of Bills and Resolutions

HB 448, by Representative B. Richardson: AN ACT relating to fences.

HB 449, by Representatives Crupper, B. Smith, P. Richardson, R. Smith and Reinhardt: AN ACT relating to damage to livestock.

HB 450, by Representatives Crupper, B. Smith, P. Richardson and Reinhardt: AN ACT relating to real estate.

HB 451, by Representatives Crupper, B. Smith and Reinhardt: AN ACT relating to motor vehicles.

HB 452, by Representative Kerr: AN ACT relating to the Kentucky Unified Juvenile Code and declaring an emergency.

HB 453, by Representatives B. Richardson, Clarke and Gregory: AN ACT relating to campaign contributions.

HB 454, by Representative Blevins: AN ACT relating to sales and use tax on rental of films by commercial motion picture theatres.

HB 455, by Representatives T. Jones, B. Richardson, Rapier, Gregory, Ridley, Geveden, Altman and Turner: AN ACT relating to tolls.

HB 456, by Representative Lundergan: AN ACT relating to architects.

HR 37, by Representatives Blandford and Stumbo: A RESOLUTION urging and praying for the speedy recovery of Orena Strong.

Representative B. Smith moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative B. Smith moved the adoption of the following Legislative Citation No. 16. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds New Generation for your outstanding performance at the Kentuckians For Better Transportation banquet held on January 14, 1988. This prestigious body further commends you, the thirty seven members of New Generation, both cast and technicians, for developing your own abilities and gaining invaluable professional experience through your travels and performances both at home and abroad.

The House of Representatives acknowledges your accomplishments in 1987, your inaugural year, and wishes you success as you travel to Germany, Belgium and Switzerland in April of 1988 to perform as well as to gain insight into the peoples and customs of other lands.

Representative B. Smith requested that a call of the roll be taken to show co-sponsors of Legislative Citation No. 16. Agreed.

The following members requested that their names be added as co-sponsors of Legislative Citation No. 16: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, L. Clark, P. Clark, Clarke, Cline, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Jackson, A. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Lundergan, Lyne, Mack, Maggard, Mason, Moberly, Napier, Nett, Noland, Northup, O'Brien, Overstreet, Priddy, Pritchett, Reinhardt, Richards, P. Richardson, Ridley, Riner, Robinson, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Pursuant to **HR 9**, the Speaker appointed the following committee to wait upon the Governor: Representatives Lundergan and Overstreet, Co-Chairmen; Representatives Bronger, Hancock and Lyne.

Representative Farrow moved that he be recorded as voting "yea" on **HB 31** and **HB 195**; "nay" on **HB 237**.

Representative Hourigan moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hourigan moved the adoption of the following Legislative Citation No. 30. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends the outstanding effort made by Martha Gibbons, principal of Lebanon Elementary School and her students who are involved in the Champions Against Drugs Prevention Program. Your concern will be felt by many and your reward received as those you have influenced ultimately display their good character and donate back to their community the giving you have shown them.

This prestigious body salutes the concern and care you and your students have shown for tragedy of others. (Sponsored by Representative Hourigan)

Representative Noe moved that **HB 319** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Reinhardt moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 27. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Elaine Schultz for your twenty-five years of teaching at St. Mary School.. You have contributed immeasurably to the shaping of many young minds during their formative years. Your dedication and devotion to your students will have a long-standing effect on their lives.

The House of Representatives joins Representative Jon David Reinhardt in commending you for your contributions to the students of St. Mary and the Community of Alexandria. (Sponsored by Representative Reinhardt)

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 3**, Representative Lefevers; **HB 20**, Representative Donnermeyer; **HB 176**, Representatives Burch, Gedling, Gray, Heleringer, A. Jones, Yates; **HB 183**; Representative Hoover; **HB 204**; Representative Altman; **HB 227**, Representatives Seum; White; **HB 228**; Representative Noe; **HB 246**; Representative Lefevers; **HB 247**, Representative Heleringer; **HB 248**; Representative Lefevers; **HB 249**; Representatives T. Jones, Lefevers; **HB 341**, Representative McElroy; **HB 392**; Representative Heleringer; **HB 402**, Representatives Heleringer, Will; **HB 405**, Representatives Ark, Casebier; Todd; Turner; **HR 36**, Representatives Ackerson, Altman, J. Brown, Casebier, Ford, Freibert, Guenthner, J. Harper; K. Harper, Heleringer, Hoover, Keith, Layman, Lefevers, Lile, Napier, Noland; Northup, Preston, Reinhardt, Robinson, Siler, Strong, Todd, Turner, Walker, Will.

Representative Burch requested that his name be withdrawn as co-sponsor to **HB 400**.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following Resolution: **HR 25**. Agreed.

HR 25, A RESOLUTION honoring Shawn Gish, Eagle Scout Award recipient.

WHEREAS, Shawn Gish will receive his Eagle Award in scouting on January 24, 1988; and

WHEREAS, Scouts, friends, church members and family will be at Beargrass Christian Church in Louisville to honor him; and

WHEREAS, Shawn Gish has earned over 30 merit badges in less than five (5) years and is Assistant Senior Patrol Leader in Troop 306 at St. Margaret Mary School; and

WHEREAS, at this time Shawn is in Australia at the Boy Scouts 16th World Jamboree representing Kentucky and the United States where he will be recognized before 15,000 scouts from all over the world for his accomplishments and his advancement to Eagle;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends and honors Shawn Gish as a worthy example of Kentucky youth.

Section 2. That the House of Representatives encourages Shawn in his pursuit of scouting and helping other younger boys meet their goals.

Section 3. That the House of Representatives hails Shawn Gish as an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Shawn Gish, 427 Timberlake Trail, Louisville, Kentucky 40223.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m., Thursday, January 21, 1988. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Committee appointed to wait upon the Governor reported the Governor was ready to address the Joint Session.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Brereton C. Jones introduced the Honorable Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky.

Governor Wilkinson addressed the Joint Session of the General Assembly as follows:

GOVERNOR WALLACE G. WILKINSON

STATE OF THE COMMONWEALTH ADDRESS

January 21, 1988

Lt. Governor Jones, Mr. Speaker, distinguished members of the General Assembly, Mr. Chief Justice, members of the Supreme Court, honored guests -

The Constitution of the Commonwealth of Kentucky provides that the Governor may from time to time address the General Assembly on the State of the Commonwealth and recommend for their consideration measures he may deem expedient. Now is that time.

Tonight I am fulfilling my responsibility by delivering precisely what the state of this Commonwealth is. The financial state of the Commonwealth of Kentucky is miserable. No amount of rhetoric can change that simple fact. This is the result of an eroding economic base caused by a mass transfer of assets out of this Commonwealth in the last decade that has occurred because we are producing less and less and being paid less and less for it. These factors are further complicated by irresponsible fiscal policies and a credit card mentality which has permeated state government too long.

For the past 45 days, I have worked day and night to implement necessary fiscal reforms to insure that the Commonwealth is started on a new course of fiscal prudence and responsibility. Additionally, we are in the process of putting together an austere, tough, budget which continues to provide and deliver those necessary state services without the burden of additional taxation on our people.

Make no mistake about it, the budget will be controversial in many quarters. But we can not tax our way out of our problems. We must work our way out of our problems with a vibrant and growing economy that provides jobs for those who want and need them. We will present a balanced and responsible budget which does not call for additional taxes, but let me give you fair warning, it is a budget that will cause severe belt tightening and will call for all in state government to make necessary sacrifices to insure that the state regains its sound fiscal footing.

But even in this difficult time, I am happy to be here and I'm filled with a spirit of optimism. I believe in Kentuckians and our ability to get back on our feet. I am happy tonight because I can tell you that the people of Kentucky understand our problem and the people of Kentucky want something done about it. Our commitment is clear and we are firm in our resolve to change the way Kentucky has been doing business and to change the way Kentucky educates our children. As has often been the case in years past, not just in Kentucky, but in other states as well, it takes the politicians and the bureaucrats and the so-called status quo a while to realize what the people already know: That it is time for fundamental change in Kentucky. No one has ever run for office with a clearer message of goals and priorities than I did. I said the old ways wouldn't work anymore in Kentucky. I said that the leadership of the status quo would be over. It's time to institute a new way.

Over the first weeks of my administration, we have taken the initial steps towards, a new Kentucky. I wish they could be bigger steps because we have some big problems. I wish we could make the changes Kentuckians are demanding faster than we are able to. But, make no mistake about one thing, we are going to live up to our commitment to the people to change the way we do business in Kentucky. The problems we face are real and they are the result of doing things the old way. They are a result of doing things the way they've always been done. Of believing that more of the same is better. Of believing that throwing more money at the same old stuff is the answer. I didn't win the election by the largest margin of victory in the history of Kentucky by promising to maintain the status quo. I received the largest percentage of the vote in the history of Kentucky and carried more counties than anyone has ever carried because the people of Kentucky know what some of us are still learning; it's past time to fight back.

The bad news is that we are in sorry shape. The good news is that we've caught ourselves in time to do something about it. We are getting our house in order. We've quit trying to avoid our problems and we've quit trying to hide them from the people. They're too smart for that and they said it loud and clear on November 3rd. We've been telling them we have a revenue deficiency. That there are shortfalls in the budget and errors in revenue projection. I say in plain talk that we're broke, busted, tapped out.

The experts say raise the level of taxes. I say raise the level of our efforts. Our willingness to tax out weighs our capacity to tax.

Our rate of growth is the lowest among the southern states and the lowest among contiguous states. From 1981 to 1985, Kentucky had a net out-migration of 52,000 people because we are doing a poor job of providing opportunities for Kentuckians. Eighteen percent of our people live in poverty. We rank among the lowest states in per capita income. Our infant mortality rate is among the highest in the nation. Our dropout rate is among the highest in the nation. We have the highest number of adults lacking a high school education of all the states. We are losing ground in manufacturing, in science and technology, in research and development. We are losing ground in virtually every area and we risk falling further behind if we don't reverse our direction now.

First, we are dealing with the shortfall the state faces in fiscal 1988. We will have a balanced budget in 1988. We've stopped indiscriminate hiring and firing of state workers and replaced it with hiring based on need and good judgment and stability in the state work force. We've cut the excesses of government where we found them and instituted policies of fiscal responsibility and common sense. Next week I will present my budget for the next two years. It will spell out in detail how we are going to invest this state's limited resources for maximum benefit for all Kentuckians. We are going to stop neglecting parts of Kentucky and start focusing on all of Kentucky. It will be a fair budget and it will be a realistic budget.

The next order of business is to change the credit card philosophy of state government. I've instituted managerial and organization changes that will prevent the problems of the past from happening again. We've restructured revenue forecasting so that we will have realistic estimates of the money state government can expect to have. We've stopped adjusting our revenue forecasts to justify what we want to spend and we've started adjusting spending to revenue forecasts. To change our credit card philosophy, we have to realize once and for all that we cannot charge our way out of our problems, we have to work our way out of our problems.

The old way said pass a tax. Pass reforms and delay funding them. Let someone else determine how to pay for our programs. Pull the covers back over our heads and just go back to sleep. If we couldn't pay for it, we charged it like a teenager at the mall with mom and dad's credit card. We said, I'll approve that program. Here's my credit card. "I'll have those reforms. Just put it on my credit card." And the bills have arrived with a thud. That's the easy way. Just keep doing what we've been doing and don't rock the boat. The editors will like it. The politicians will like it. The bureaucrats will like it. The entrenched interests will like it.

But, it won't work. In the last four years, we've passed more taxes but continued to spend beyond our means. When are we going to figure out you don't charge your way to prosperity at home and we can't do it in state government? And this nation can't do it either. The average Kentuckian knows that and Kentucky businesses know that. They know what the status quo will not admit. That we can't afford to put our future on Mastercard and Visa. Now, we're going to stop putting money into programs that don't work. We're going to start new ones that will. We're not going to spend what we don't have. We're going to make the most of what we do have. We are going to prove to the people of this Commonwealth that we are spending properly what we do have. Before we ask them to give us more. We're tearing up the credit cards. We're going to pay as we go. We are initiating a new era of common sense with a year of common sacrifice. We're going to do it the old fashioned way. We're going to work smart and we're going to work hard.

We will begin in education. We are going to have accountability-based education in Kentucky. We will institute a measure of performance for our schools that is realistic, fair, and very clear in its intent to show us where we really are in education. Not where our best schools are. Not where our best students are. But where every school and every student is. It is impossible to improve anything until we know exactly where we are. In 1986 the Carnegie Forum on Education and the economy proposed an overhaul of how teachers teach and what students learn. We must create an environment in our classrooms where all children can learn to the best of their abilities. It is the foundation on which much of what we want to do is based.

The Carnegie report, entitled "A Nation Prepared: Teachers for the 21st Century," is the blueprint for change in education in the Dade County school system in Miami. The New York Times reports "that there is already evidence that students and teachers are happier." They started instituting changes last fall. In Rochester, New York, the public schools are instituting the approaches of the Carnegie report and the entire nation is watching their progress. As a model for educational reform, says U.S. News and World Report, Rochester is shaping up as the hottest place in America.

I will ask you to adopt a benchmark program for schools and an incentive program for schools. We will be able to reward good schools and good teachers for their efforts in a way that will produce meaningful results. We won't ask for everything we need, but we will get the program started because it's sound and allows us to be out front in education. Let's get out front for a change in the second wave of education reform. And we can do that at a cost less than what we are spending to be behind. I will not abandon the successes of the past, but neither will I allow us to invest our education dollars in programs that don't show promise for real improvement in our schools. We will propose a way to help Kentucky's most disadvantaged schools, particularly those in the fifth and seventh congressional districts and below performance school districts throughout the state.

Furthermore, I will ask for your support in creating state-of-the-art schools to serve as examples to others. These benchmark schools will illustrate how all our schools can be organized for better learning. They will be encouraged to incorporate and utilize the very latest in educational theory, technology, and classroom staffing and organization. And above all, they will recognize that all students do not learn at the same rate and we must stop teaching at the same rate. Assembly line education does not work. We are going out front in the second wave of education reform and I want Kentucky to stay there. With your help, we will.

We remain committed to the stability and improvement of our colleges and universities. Our focus in higher education must be on maximizing the potential of our resources, particularly our human resources. We must look for ways to improve faculty salaries. Closely linked to education, but a critical element of our economic development goals, is job training. Two new jobs programs will be proposed. A job certificate program, utilizing state and federal funds will be established as part of the Bluegrass State Skills Corporation.

Unemployed Kentuckians will have the resources needed to get job training and we will have accountability in the program to make sure that those people trained are, in fact, employed at the end of their training. The other program will be a customized training program, targeted to small and medium sized businesses, to enable the Commonwealth to assist Kentucky employers who are expanding their operations or introducing new technologies. We will provide job training in areas not eligible for job training partnership programs or other existing training programs.

Our days of being economically underprivileged are going to end. We are going to put jobs in our counties which will raise the standard of living for Kentuckians. And that, as much as anything else will change attitudes towards education. We are going to be imaginative, creative, competitive, and absolutely dedicated to helping Kentucky businesses grow and expand. We will continue our efforts in the international marketing place to expand current markets and create new ones. I will ask for funds to begin an infrastructure improvement program for local communities and counties to make investments in their own future economic growth and vitality. A portion of those funds will also be used to match federal dollars available for upgrading wastewater treatment facilities. The remainder will be utilized to supplement local funds as needed for the establishment of infrastructure needs, especially clean water, all of which is a must for rural economic development. We will recommend other initiatives spelled out in my Kentucky first platform such as support for research and development programs, seed and venture capital and support for new technologies.

Many of our citizens depend upon the vital services of our Cabinet for Human Resources and we will maintain those programs and services. In particular we will assign a priority to finding ways to improve our efforts in prenatal care, wellness programs for children and other early childhood health programs. You have already placed the lottery on your agenda as House Bill 1. I thank you for that. I will work with you to make sure that Kentuckians have the same opportunity most other Americans have had to vote on whether or not we will have a lottery and the revenues it will generate for senior citizens and early childhood development programs. In short, we are going to continue to pursue the goals we set out when I campaigned for Governor. We won't be able to do everything I would have liked right away. I'm willing to make that sacrifice because it is more important right now to get our fiscal ship of state in order and that is what I'm doing. We may be on our knees, but we're not yet down for the count. Kentucky is coming back.

Next week, I will be back and we'll discuss how we will balance the budget for fiscal 1988 and the specifics of the budget for the next two years. The fiscal 88-90 budget is going to be a lean budget, but is going to be a fair budget. It is going to deal with necessities and important priorities not luxuries or convenience. The days of false promises, a credit card mentality, and illusionary figures can no longer be a part of Kentucky's budget and spending process. The old ways in state government of passing unfunded programs, of forecasting revenues that will never exist, and continuing to put off payment of existing obligations must end and it must end immediately. A year of common sacrifice in return for a decade of common sense is what I am initiating.

The rewards we will reap are great, but first we have to right ourselves. The reward for our sacrifice is hope, optimism, and opportunity. It is the chance to compete again for the prosperity this nation offers. Our reward will be a new Kentucky ready for the challenges of the future. A new Kentucky. A Kentucky first in education. A Kentucky first in economic development. We're going to have the common sense and the good sense to do it right this time.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 402**, by Representative Callahan.

Amend printed copy of **HB 402** on page 1, at the beginning of the bill by inserting the following new section,

"SECTION 1. A NEW SECTION OF KRS 81A IS CREATED TO READ AS FOLLOWS:

A city may annex any area which meets the requirements of KRS 81A.410, if each of the owners of record of such land consent in writing to the annexation. In such event, the city shall not be required to wait the sixty (60) day period provided for in KRS 81A.420(2) prior to enacting a final ordinance annexing the area."; and

On page 1, line 1, by renumbering "Section 1" to "Section 2"; and

On page 3, line 13, by renumbering "Section 2" to "Section 3".

Floor Amendment No. 2 to **HB 402**, by Representative Long.

Amend printed copy of **HB 402** on page 2, line 18, by deleting the words "*fifty-one percent (51%)*" and inserting in lieu thereof "*two-thirds (2/3)*"; and

On page 2, line 19, by deleting the words "*those persons voting*"; and

On page 2, line 20, by removing the brackets and strike throughs on that line; and

On page 2, line 23, by deleting the words "*fifty-one percent (51%)*" and inserting in lieu thereof "*two-thirds (2/3)*"; and

On page 2, line 24, by deleting the words "*those persons voting*" and removing the brackets and strike throughs from the word "the"; and

On page 2, line 25, by removing all brackets and strike throughs on that line; and

On page 3, line 6, by deleting the words "*fifty-one percent (51%)*" and inserting in lieu thereof "*two-thirds (2/3)*"; and

On page 3, line 7, by deleting the words "*those persons voting*" and removing the brackets and strike throughs from the words "the qualified"; and

On page 3, line 8, by removing the brackets and strike throughs from the words, "voters in the area".

Floor Amendment No. 3 to **HB 402**, by Representative Long.

Amend printed copy of **HB 402** on page 2, line 5, at the beginning of that line by inserting "*(3)*" and bracketing and striking through [~~(a)~~]; and

On page 2, lines 18 thru 26 by deleting them in their entirety and inserting in lieu thereof,

"*(a)* [~~(b)~~] *If the area to be annexed receives two (2) or more city services which shall include but not be limited to sanitary sewer, municipal water, municipal electric, police protection, fire protection or garbage collection, then*

1. if less than *two-thirds (2/3)* [~~seventy-five percent (75%)~~] of the qualified voters in the area to be annexed oppose annexation, the unincorporated territory shall become a part of the city, [~~;~~] and

2.[e] If *two-thirds (2/3)* [~~seventy-five percent (75%)~~] or more of the qualified voters in the area to be annexed oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose [~~.~~]; *or*

(b) If the area to be annexed receives less than two (2) city services which shall include but not be limited to sanitary sewer, municipal water, municipal electric, police protection fire protection or garbage collection, then

1. If less than fifty-one percent (51%) of those persons voting oppose annexation, the unincorporated territory shall become a part of the city, and

2. If fifty-one percent (51%) or more of those persons voting oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose."; and

On page 3, line 1, by deleting it in its entirety; and

On page 3, line 2, at the beginning of the line by inserting "*(4)*" and bracketing and striking through [~~(3)~~]; and

On page 3, line 5, after the word "results" by inserting and underlining "*as provided in Subsection 3 and 2c of this Act*"; and

On page 3, line 5 by open bracketing and striking through the word "[~~in~~]"; and

On page 3, line 6, by striking through the words "[~~which less than~~]" and deleting the words "*fifty-one percent (51%)*" and deleting the opening bracket in front of "[~~seventy-five~~]"; and

On page 3, line 7, by deleting the closing bracket after "[~~75%)~~]", and striking thru the word "[~~of~~]", and deleting the words "*those persons voting*" and removing the opening bracket before the word "[~~the~~]"; and

On page 3, line 8, by removing the closing bracket after the word "[~~area~~]", and striking through and end bracketing the words "[~~opposed annexation~~]".

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 22, 1988.

On the roll call the vote was yeas 69-Adkins, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Ford, Gedling, Geveden, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hourigan, Jackson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Robinson, Scorsone, B. Smith, R. Smith, Strong, Walker, Worthington, Yates. Nays 2-Heleringer, LeMaster.

The motion to adjourn was adopted.

FRIDAY, JANUARY 22, 1988

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Pierce Dodson, Providence Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Burch, Curd, Hancock, Hatcher and Overstreet.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 21, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 2**, **SB 12** and **SB 13**.

Report on Enrolled Bills

HCR 10 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introductions of Bills and Resolutions

HB 457, by Representatives Cyrus, Ridley, Mason and Little: AN ACT relating to insurance of motor vehicles.

HB 458, by Representative Hancock: AN ACT relating to retirement.

HB 459, by Representatives Riner, Castleman, P. Clark, Handy, J. Harper, Robinson, Noland, Lefevers, Maggard, Ford, P. Richardson, Little, Ridley, J. Brown, Johnson, Reinhardt, Napier, Nett, Will, R. Smith, Arnold, Todd and Kerr: AN ACT relating to motor vehicle license plates.

HB 460, by Representative Johnson: AN ACT relating to corporations.

HB 461, by Representative Cyrus: AN ACT relating to motor vehicles.

HR 38, by Representatives Blevins, Adkins, Worthington, Arnold, Strong, and Cline: A RESOLUTION honoring the Morehead State University varsity cheerleading squad.

HCR 39, by Representative Callahan: A CONCURRENT RESOLUTION praising the city of Wilder the honorary third place winner of the "Governor's Competition for Excelling in Park Habilitation".

HR 40, by Representative Noe: A RESOLUTION in memory of Nena Marie Mitchell, of Harlan County.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 406**, **HB 407**, **HJR 27**.

Counties and Special Districts: **HB 422, HB 425.**

Energy: **HB 311, HB 367.**

Education: **HB 223, HB 285, HB 302, HB 312, HB 318, HB 364, HB 374.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 442, HB 443, HB 449, HB 450.**

Appropriations and Revenue: **HB 454.**

Banking and Insurance: **HB 446.**

Business Organizations and Professions: **HB 456.**

Education: **HJR 33, HB 440.**

Health and Welfare: **HB 439, HB 447.**

Judiciary-Civil: **HCR 30, HB 448.**

Judiciary-Criminal: **HB 438, HB 452.**

Labor and Industry: **HB 441.**

Natural Resources and Environment: **HJR 31.**

State Government: **HB 453.**

Transportation: **HB 451, HB 455.**

Report of Committees

The Committee on Education reported **HB 72, HB 79, HB 226, HB 232, HB 233,** and **HJR 3** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 72, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.317 is amended to read as follows:

The department of education shall develop, *and implement* [~~or cause to be developed,~~] a statewide kindergarten program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally accepted kindergarten programs. [~~This program shall be implemented statewide by the department of education beginning in the 1985-86 school year.~~]

Section 2. KRS 158.030 is amended to read as follows:

(1) A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation

unless the school is taught by a *certified* [~~qualified~~] teacher for a *minimum school* term *as defined by KRS 158.070* [~~of eight (8) or more months during the school year~~] and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school [~~as provided by KRS 157.315~~] or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a public school kindergarten.

(2) Notwithstanding any statute to the contrary, [~~effective July 1, 1986 and any year thereafter,~~] successful completion of kindergarten shall be a prerequisite for a child's entrance into first grade. The state board of education shall establish, by regulation, methods of verifying successful completion of kindergarten and extenuating circumstances for which waiver of the above prerequisite may be granted. The local school district, with the approval of the state department of education, may organize the local kindergarten program in the manner most appropriate to the local situation provided the plan assures that each child receives an average of fifteen (15) hours class time per week. *Plans may be designed to allow* the local district *to* [~~may~~] use five (5) three (3) hour sessions per week; alternate sessions of three (3) days a week with one (1) group and two (2) days a week with a second group with the two (2) groups reversing days every other week; or any other approved plan.

Section 3. The following KRS sections are repealed:

157.312, Declaration of legislative intent to authorize public kindergarten; and

157.315, Regulation for operation of public kindergarten; attendance eligibility.

HB 79, AN ACT relating to department of education employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.026 is amended to read as follows:

An employe of a local school district who transfers to become an employe of the department of education shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). The employe shall be allowed credit for each year of experience in the local school system for the purposes of determining *salary in accordance with the current department of personnel pay schedule* [~~pay grade steps~~], and the rate of accumulation of annual and sick leave in the department of education.

HB 226, AN ACT relating to reports of retirement funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.615 is amended to read as follows:

Each retirement fund listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed by the listed fund during each fiscal year on or before the *first day of January after the fiscal year* [~~15th of July~~], showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each listed fund to the legislative research commission. The funds which shall be reported are:

(1) Kentucky employes' retirement fund;

(2) State police retirement fund;

(3) County employes' retirement fund;

(4) Kentucky retirement systems insurance fund;

(5) Funds controlled by the teachers' retirement system of the state of Kentucky;

(6) Judicial retirement fund;

(7) Legislators retirement fund; and

(8) The Kentucky state public employes deferred compensation trust fund.

HB 232, AN ACT relating to the Department for the Blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.470 is amended to read as follows:

(1) There is created within the education and humanities cabinet the department for the blind.

(2) The executive director shall be appointed by the governor upon the recommendation of the secretary of the education and humanities cabinet to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The office of the secretary of the education and humanities cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired.

(4) All records, equipment and personnel presently under the division of vocational rehabilitation services for the blind which includes the Kentucky business enterprises program and the Kentucky industries and rehabilitation center for the blind, and the division of special and technical aids for the blind, under the jurisdiction of the department of rehabilitation services, department of education, shall be transferred to the department. All funds budgeted to the division of vocational rehabilitation services for the blind, the Kentucky business enterprises program, the Kentucky industries and rehabilitation center for the blind and the division of special and technical aids for the blind shall be transferred to the department. The state treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(5) The department for the blind shall establish an advisory council on services for the blind and visually impaired of fifteen (15) persons. There shall be state-wide representation. Leaders of the known organizations of the blind shall be included. The advisory council on services for the blind and visually impaired shall advise the department and the executive director on matters concerning the delivery of services, the determination of priorities, the formulation of policy, the allocation of resources, the evaluation of programs, and other matters as may be referred to the council by the executive director. The advisory council on services for the blind and visually impaired shall be utilized by the department to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide rehabilitation services to the blind and visually impaired. A majority of the members shall be blind or visually impaired. The term of appointments shall be four (4) years except for the members first appointed; four (4) members shall be appointed for four (4) year terms; four (4) members shall be appointed for three (3) year terms; four (4) members shall be appointed for two (2) year terms; and three (3) members shall be appointed for one (1) year terms. Persons shall be eligible for reappointment; however, no person shall serve more than two (2) consecutive four (4) year terms. The governor shall appoint the chairman from the membership of the council. The term of office for the chairman shall be two (2) years, and an appointee shall be eligible to serve more than one (1) term. No department employe shall be a member of the council. Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in service on the council.

(6) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(7) At the close of each fiscal year, the department shall prepare a financial report and present it to the secretary of the education and the humanities cabinet and to the governor. The annual report shall be published. The annual report shall, also, contain a precise review of the work of the department and contain

necessary suggestions for improvement.

(8) The department shall coordinate its functions with other appropriate public and private agencies.

(9) The department shall perform all other duties as required of it by law.

(10) The executive director shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, physical disability or national origin. Department employes shall receive compensation and travel expenses as allowed other employes of the Commonwealth.

(11) There shall be created under the authority of the department, to be directed by the executive director, a division of client services which shall provide intake and rehabilitation counseling services, distribute or sell technical educational and other aids to the blind, provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind, research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, and other services as needed for blind adults, and services for the blind who have other disabilities, and promote employment of the blind in public and private sectors.

(12) There shall be established under the authority of the department to be directed by the executive director, a division of business enterprises. This division shall *manage and supervise* [~~include~~] the vending facilities program and *license qualified blind persons as vendors* [~~shall promote the development of other small businesses~~]. In connection therewith, the department shall be authorized to own[~~,~~] *or* lease[~~, manage, supervise and operate~~] vending *equipment* [~~facilities and other business enterprises~~] for *the operation of vending facilities* [~~use or benefit of blind persons~~] in federal, state, private and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in *34 CFR 395.9* [~~1369.9~~] of the Randolph-Sheppard Act. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The department for the blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind *vendors* [~~persons~~] in state buildings or on other property owned, leased or otherwise occupied by the state government and *shall* [~~may~~] install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind *vendor* [~~operator~~] of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which *shall* [~~will~~] protect the interest of both from unreasonable competition. *The agreement* [~~Such agreements~~] shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the *blind vendor* [~~operator~~] shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(13) There shall be established under authority of the department, to be directed by the executive director, a division of industries for the blind which shall provide industrial evaluation, training and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind.

(14) There shall be established an office of support services to provide services and data required by the program divisions for proper and timely execution of their assigned responsibilities, including fiscal and personnel management; staff development and training; program planning, evaluation and audit; affirmative action and client appeal and hearing services.

(15) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office and [~~such~~] other staff services as may be deemed necessary.

HB 233. AN ACT relating to student records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all public supported institutions of higher learning in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents *and legal guardians* of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student records shall be made available [~~upon request~~] to any federal, state, or local law enforcement agency and any court of law *upon request or issuance of a subpoena.*

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student records shall be made available upon request to the council on higher education for professional academic research.

(9) All student records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all public supported institutions of higher education in Kentucky.

HJR 3, A JOINT RESOLUTION commemorating the two hundredth year of the Constitution of the United States of America and directing the public schools to post a copy of the Bill of Rights in commemoration thereof.

WHEREAS, the framers of the Constitution of the United States in 1787 envisioned a tripartite form of government with opportunities for citizenry self-governance and redress and that form of government has remained vital throughout the document's existence, despite changing social and economic conditions; and

WHEREAS, the Constitution of the United States of America is the fundamental law of our Nation and directly impacts our daily lives; and

WHEREAS, the Bill of Rights of the Constitution of the United States of America embodies the fundamental freedoms and individual liberties that we, as Americans cherish; and

WHEREAS, public schools have the responsibility to educate students in the historical roots of American life and to inculcate students in those values and principles essential to democratic living;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That each public elementary and secondary school classroom in the Commonwealth of Kentucky prominently display a copy of the Bill of Rights, embodying the individual liberties safeguarded by the Constitution of the United States.

Section 2. At some point during the 1988-1989 school year, each elementary and secondary public school in the Commonwealth shall display a copy of the Bill of Rights which shall remain posted.

The Committee Amendment No. 1 to **HJR 3** is as follows:

Amend printed copy of **HJR 3** on page 2, line 9 after the word "remain" insert the following: "permanently"

The Committee Amendment No. 2 to **HJR 3** is as follows:

Amend printed copy of **HJR 3** on page 2, line 7, after the word "school" insert the word "classroom".

Calendar

HB 9, **HB 23**, **HB 54**, **HB 55**, **HB 398**, **HB 3**, **HB 5**, **HB 202**, **HB 246**, **HB 248**, **HB 249**, **HCR 6** and **HB 87** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 11** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See January 22, 1988, roll call on **HB 11** - Appendix A.)

HB 11 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 11** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 199** be passed.

On the roll call the vote was: Yeas 71, Nays 19. (See January 22, 1988, roll call on **HB 199** - Appendix A.)

Representative Long moved that the vote by which **HB 199** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that **HB 66** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See January 22, 1988, roll call on **HB 66** - Appendix A.)

Representative Maggard moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution and Legislative Citations. Agreed.

Representative Blevins moved the adoption of the following **HR 38**:

HR 38, A RESOLUTION honoring the Morehead State University varsity cheerleading squad.

WHEREAS, the Morehead State University varsity cheerleading squad recently won the 1988 Division I National Cheerleading Champions title in San Diego, California, on January 9, 1988; and

WHEREAS, more than 200 teams submitted videotapes in this national cheerleading competition; and

WHEREAS, the Morehead State University varsity cheerleading squad, the 1988 National cheerleading Champions, travelled home with a beautiful trophy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hereby honors and commends the Morehead State University varsity cheerleading squad for winning the 1988 Division I National Cheerleading Champions title.

Section 2. That this honorable body congratulates sponsor Myron Doan and squad members Missi Collins, Mike McBeath, Leigh Clay Richardson, Barry Wolford, Margaret Blackwell, Darold Giles, Terri Goss, Eddie Petry, Sandy Everman, Scott Cooke, Jill Irvin, Robert Esbridge, Ronnie Pies and Angie Brown for their outstanding performance.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Morehead State University President C. Nelson Grote, cheerleading sponsor Myron Doan and to every member of the Morehead State University varsity cheerleading squad.

HR 38 was adopted by voice vote.

Representative Blevins moved the adoption of Legislative Citations No. 14 and No. 15. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes Myron Doan sponsor of the Morehead State University Varsity Cheerleading Squad for your outstanding leadership and encouragement to the squad to accomplish their goal of winning the national title.

The House of Representatives honors you for your contributions. (Sponsored by Representative Blevins)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Margaret Blackwell a member of the Morehead State University Varsity Cheerleading Squad for winning the 1988 Division I National Cheerleading Champions title.

The House of Representatives recognizes your willingness to work a little harder and go that extra mile to accomplish goals such as this and commends you for your performance during the competition in San Diego, California. (Sponsored by Representative Blevins)

Orders of the Day

HB 402, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of Committee Amendment No. 1 to **HB 402**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 1 to **HB 402**. Agreed.

Representative Adkins moved that **HB 402**, as amended, be passed.

Representative Long moved the adoption of Floor Amendment No. 3 to **HB 402**. Rejected.

On the roll call the vote was: Yeas 74, Nays 17. (See January 22, 1988, roll call on **HB 402** - Appendix A.)

HB 402, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 402**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 462, by Representative B. Smith: AN ACT relating to insurance.

HB 463, by Representatives Priddy, Kerr, Nett, Will, Hatcher and Hoover: AN ACT relating to crimes and punishments.

HB 464, by Representative Yates: AN ACT relating to benefits for state employes.

HB 465, by Representative Seum: AN ACT relating to income tax.

HB 466, by Representatives Todd and McElroy: AN ACT relating to motor vehicles.

HB 467, by Representatives Todd and McElroy: AN ACT relating to motor vehicles.

HB 468, by Representative McElroy: AN ACT relating to urban county government.

HB 469, by Representatives Stumbo, Ridley, R. Smith, McElroy, Jackson, Bronger, Deskins, M. Brown, Gedling, P. Clark, White, Siler, Strong and Ballard: AN ACT relating to hunters.

HB 470, by Representative Little: AN ACT relating to dogs.

HR 41, by Representative Heleringer: A RESOLUTION honoring Representative Anne Northup.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **HB 369**, **HB 370**.

Natural Resources and Environment: **HB 428**, **HB 429**, **HB 430**, **HB 431**, **HB 432**.

Labor and Industry: **HB 413**.

Judiciary-Criminal: **HB 349**, **HB 350**, **HB 351**, **HB 352**, **HB 353**.

Judiciary-Civil: **HB 386**.

Motions, Petitions and Communications (continued)

Representative J. Harper moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative J. Harper moved the adoption of the following Legislative Citations No. 9, No. 31, No. 32, and No. 33. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, honors, and commends the Overdale Elementary School and Principal Pat Foster for being judged by the Champions Statewide Action Group in conjunction with the Division of Substance Abuse a winner in the statewide Video/Storyboard contest about alcohol and drug problems.

Whereas, it is both fitting and proper for the Commonwealth of Kentucky to honor, recognize, and commend its citizens and institutions, both Sacred and Secular.

The House of Representatives of the Commonwealth of Kentucky does herewith extend its most hearty congratulations and best wishes to Overdale Elementary School including all the students, teachers, staff, and principal, Mrs Pat Foster, for all who attend and work there are a credit to their community. their county, and to their state. (Sponsored by Representative J. Harper)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, honors, and commends Dr. Neyland G. Clark, Superintendent and the Bullitt County Board of Education for their efforts in encouraging Brooks and Overdale Elementary Schools to participate in and for being judged WINNERS by the Champions Statewide Action Group in conjunction with the Division of Substance Abuse in the statewide Video/Storyboard contest conducted by Champions Against Drugs, a project to educate communities and citizens about alcohol and drug problems.

The House of Representatives does herewith extend its most hearty congratulations and best wishes to the Bullitt County Board of Education and Superintendent, Dr. Neyland G. Clark, and to Brooks and Overdale Elementary Schools, including all the students, teachers, staff, and principals, Mr. Marvin Stewart and Mrs. Pat Foster, for all their efforts put forth in winning this most worthy project. Brooks and Overdale Elementary Schools, and all who attend and work there, are a credit to their community, their county, and to their state. (Sponsored by Representative J. Harper)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, honors and commends Sarah Zinger for being judged a WINNER by the Champions Statewide Action Group in conjunction with the Division of Substance Abuse in the statewide Video/Storyboard contest conducted by Champions Against Drugs, a project to educate communities and citizens about alcohol and drug problems.

The House of Representatives herewith extends its most hearty congratulations to the Bullitt County Board of Education and Superintendent, Dr. Neyland G. Clark, and to Sarah Zinger, and Overdale Elementary School and all students, teachers, staff and principal, Mrs. Pat Foster, for their efforts in winning this most worthy project. Overdale Elementary School and all who attend and work there are a credit to their community, their county, and their state. Sponsored by Representative J. Harper)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, honors, and commends the Overdale Elementary School and Principal Pat Foster for being judged by the Champions Statewide

Actin Group in conjunction with the Division of Substance Abuse a winner in the statewide Video/Storyboard contest conducted by Champions Against Drugs, a project to educate communities and citizens about alcohol and drug problems.

The House of Representatives of the Commonwealth of Kentucky does herewith extent its most hearty congratulations and best wishes to Overdale Elementary School including all the students, teachers, staff, and principal, Mrs Pat Foster, for all their efforts put forth in winning this most worthy project. Overdale Elementary School and all who attend and work there are a credit to their community, their county, and to their state. (Sponsored by Representative J. Harper)

Representative Noe moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Noe moved the adoption of the following **HR 40**:

HR 40. A RESOLUTION in memory of Nena Marie Mitchell, of Harlan County.

WHEREAS, fourteen month-old Nena Marie Mitchell, of Harlan County, died last Sunday night in a Nebraska hospital, while awaiting a donor organ for transplant; and

WHEREAS, the desperate struggle of this small child touched the hearts of many Kentuckians, and Nena Marie became the object of their prayers and their love; and

WHEREAS, her devoted family and her community did all that they could to give Nena Marie a chance to live;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House extends its profound sympathy to the family of Nena Marie Mitchell and their many supporters.

Section 2. That when the House adjourns this day, Friday, January 22, 1988, it does so in memory of Nena Marie Mitchell.

Section 3. That a copy of this resolution be sent to Mr. and Mrs. Steve Mitchell.

HR 40 was adopted by voice vote.

Representative T. Jones moved the adoption of the following Legislative Citation No. 29. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes Joyce Carson, Director of Membership Assistant, for her four years of service and friendship to Zeta Gamma Chapter of Kappa Kappa Gamma are exemplary measures of loyalty and dedication. She has provided leadership and valued insight to a young and growing fraternity chapter. The qualities of character and aspirations encouraged by Joyce have influenced the outlook and insight of many young women at Centre College.

This prestigious body joins Representative Tom Jones in saluting you for your contributions. (Sponsored by Representative T. Jones)

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes Carol Armstrong, Director of Membership Assistant, for her four years of service and friendship to Zeta Gamma Chapter of Kappa Kappa Gamma are exemplary measures of loyalty and dedication. She has provided leadership and valued insight to a young and growing fraternity chapter. The qualities of character and aspirations encouraged by Carol have influenced the outlook and insight of many young women at Centre College.

This prestigious body joins Representative Tom Jones in saluting you for your contributions. (Sponsored by Representative T. Jones)

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 41**:

HR 41, A RESOLUTION honoring Representative Anne Northup.

WHEREAS, some say that life begins at forty; what they don't say is "Life's no party"; but in your case we hope life means the liveliness of seventeen;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House wishes Representative Anne Northup a happy birthday and many happy returns.

Section 2. That a copy of this resolution be sent to Representative Anne Northup.

HR 41 was adopted by voice vote.

Representative Heleringer moved that a call of the roll be taken to show co-sponsors of **HR 41**. Agreed.

The following members requested that their names be added as Co-sponsors of **HR 41**: Allen, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, J. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Cyrus, Deskins, Donnermeyer, Ford, Gedling, Geveden, Guenthner, Handy, J. Harper, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, Keith, Kerr, Layman, Lefevers, Long, Lyne, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, Siler, B. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HCR 39**:

HCR 39, A CONCURRENT RESOLUTION praising the city of Wilder the honorary third place winner of the "Governor's Competition for Excelling in Park Habilitation".

WHEREAS, this honorable body is pleased to acknowledge and recognize the vital importance of parks; and

WHEREAS, Kentucky takes great pride in its parks; and

WHEREAS, the city of Wilder is much smaller than the cities receiving first and second place awards for the "Governor's Competition for Excelling in Park Habilitation"; and

WHEREAS, the city of Wilder's award winning park habilitation includes new greenery, shelters, trails, plumbing, boat dock; and

WHEREAS, this park/marina belongs to the Corp of Engineers; and

WHEREAS, the Corp of Engineers leased the park/marina property to the city of Wilder for twenty-five years at no cost;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House salutes Robert E. Schindler, Chief of Police and Chairman of the Recreation Department for his initiative and dedication.

Section 2. That the members of this honorable body recognize and commend the city maintenance department for their excellence.

Section 3. That the clerk of the House is directed to transmit copies of this resolution to Robert E. Schindler and the city maintenance department.

HCR 39 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 14, Representative Donnermeyer; **HB 26**, Representative Hoover; **HB 35**, Representative Donnermeyer; **HB 39**, Representative Geveden; **HB 176**, Representative Reinhardt; **HB 227**, Representative Keith; **HB 228**, Representatives Adams, Blevins, J. Brown, Cyrus, Donnermeyer, Mason, Riner; **HB 248**, Representative Keith; **HB 249**, Representative Keith; **HB 392**, Representative Yates; **HB 402**, Representative Todd; **HB 449**, Representative Layman.

Representative Casebier requested that his name be withdrawn as co-sponsor to **HB 372**.

Representative Guenthner moved that he be recorded as voting "yea" on **HB 11**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HCR 6**, by Representative Stumbo.

Amend printed copy of **HCR 6** on page 2, line 4, by adding the following:

"Section 2. Staff services to be utilized by the Task Force are estimated to cost $10,000 and are to be provided by the Commission from its regular budget, subject to the limitations and other research responsibilities of the Commission."

Floor Amendment No. 4 to **HB 14**, by Representative Kerr.

Amend printed copy of **HB 14** on page 2, lines 2 through 4,

By deleting the words "*prominently attaching to the body of the deceased a red tag bearing the words "Blood and Body Fluid Precautions.*"" and inserting in lieu thereof the following:

"*including the statement "Blood and Body Fluid Precautions" on the provisional report of death form as prescribed by the cabinet for human resources.*"

Floor Amendment No. 2 to **HB 337**, by Representative Lear.

Amend printed copy of **HB 337** on Page 9, between lines 7 and 8, insert the following language:

"*SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:*

A finding of non-compliance with KRS 13A.030(2)(a) made by both the administrative regulation review subcommittee or appropriate jurisdictional committee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding the legislative research commission may institute legal proceedings in Franklin Circuit Court.

Section 8. If any section of this Act is declared unconstitutional, the remaining parts of this Act shall remain in force."; and,

Renumber subsequent sections accordingly.

The Clerk announced the following meetings:

Jefferson County Delegation, January 25, 1988 at 10:00 a.m.

Committee on Labor and Industry, January 25, 1988 at 12 noon Room 107.

Committee on Rules, State Reception Room, on adjournment, today.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 25, 1988.

On the roll call the vote was yeas 73-Adkins, Allen, Ark, Arnold, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gregory, Handy, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 2Bronger, Heleringer.

The motion to adjourn was adopted.

MONDAY, JANUARY 25, 1988

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Joe Adams, Chaplain to Kentucky State Government, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 22, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 9** and **SB 11**.

Representative J. Harper moved that the rules be suspended to act upon Legislative Citations and to introduce and act upon a Resolution. Agreed.

Representative J. Harper moved the adoption of the following Legislative Citations No. 7, No. 8, and No. 10. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Judy Hopkins/Terry Cox for your sponsorship of the Shepherdsville Middle School cheerleading squad. Your dedication and leadership has contributed to their successful performance at the International Open Cheerleading Championships and their award as Grand Champions in the Junior High Division as well as a First Place Special Award for their dance routine.

The House of Representatives joins Representative John Harper in saluting you for your support and encouragement. (Sponsored by Representative J. Harper)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Amy Pickett for your participation as a member of the Shepherdsville Middle School cheerleading squad. Especially noteworthy is your outstanding achievement of being awarded Grand Champions in the Junior High Division competition at the International Open Cheerleading Championships.

The House of Representatives joins Representative John Harper in commending you and salutes you for bestowing great pride and honor upon your school, community and the Commonwealth of Kentucky. (Sponsored by Representative J. Harper)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Shepherdsville Middle School and Principal Joe Mills for your encouragement and support of your cheerleading squad and their outstanding performance at the International Open Cheerleading Championships in Nashville, Tennessee. Their award as Grand Champions in the Junior High Division has brought national attention and honor to your school, community, and the Commonwealth of Kentucky.

This prestigious body joins Representative John Harper in saluting you and recognizes the contributions you have made toward the exceptional accomplishment of these ten members of your student body. (Sponsored by Representative J. Harper)

HR 42, by Representative J. Harper: A RESOLUTION in honor of the Shepherdsville Middle School Cheerleading Squad and sponsor Judy Hopkins.

Representative J. Harper moved the adoption of the following **HR 42**:

HR 42, A RESOLUTION in honor of the Shepherdsville Middle School Cheerleading Squad and sponsor Judy Hopkins.

WHEREAS, the 3rd Annual ICF International Open Cheerleading Competition was held December 30, 1987; and

WHEREAS, at this distinguished competition, the Shepherdsville Middle School Cheerleading Squad received the grand champion award of the Junior High Division; and

WHEREAS, the Shepherdsville Middle School Cheerleading Squad consists of sixth, seventh, and eighth graders and they competed with seventh, eighth, and ninth graders; and

WHEREAS, the Shepherdsville Middle School Cheerleading Squad triumphed over thirty-seven states and Canada to win the ICF International Open Cheerleading Competition; and

WHEREAS, the Shepherdsville Middle School Cheerleading Squad advanced to first place in the ICF International Open Cheerleading Competition after coming in sixth and fifth in previous years; and

WHEREAS, this squad was sponsored by Judy Hopkins, who was assisted by Terry Cox, Gayle Kapzman and Ellen Newton; and

WHEREAS, the Shepherdsville Middle School Cheerleading Squad have shown great determination, skill, and spirit;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend the Shepherdsville Middle School Cheerleading Squad upon the occasion of winning the Junior High Division of the 3rd Annual ICF International Open Cheerleading Competition.

Section 2. That the House of Representatives is proud to honor sponsor Judy Hopkins, assistants Terry Cox, Gayle Kapzman, Ellen Newton, and squad members Shelley Adkins, Penney Hobbs, Michelle Sharp, Candi Beamer, Brooke Keller, Jo-Leith Blakely, Tracie Mudd, Amy Picket, Destiny Wolford, and Tiffany Stargel.

Section 3. That the Clerk of the House is directed to transmit sufficient copies of this resolution to cheerleading sponsor Judy Hopkins in care of Shepherdsville Middle School, P.O. Box 369, Shepherdsville, Kentucky 40165, for distribution to assistants and members of the squad.

HR 42 was adopted by voice vote.

Introduction of Bills and Resolutions

HB 471, by Representative Burch: AN ACT relating to the prevention of sexually transmitted diseases and related matters.

HB 472, by Representative T. Jones: AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

HB 473, by Representative T. Jones: AN ACT relating to the higher education student loan corporations.

HB 474, by Representative Priddy: AN ACT relating to educational television.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 470**.

Appropriations and Revenue: **HB 465**.

Banking and Insurance: **HB 457**, **HB 462**, **HB 444**, **HB 445**.

Counties and Special Districts: **HB 468**.

Judiciary-Civil: **HB 460**.

Judiciary-Criminal: **HB 463**.

Natural Resources and Environment: **HB 469**.

State Government: **HB 458**, **HB 464**, **SB 2**.

Transportation: **HB 459**, **HB 461**, **HB 466**, **HB 467**, **SB 12**, **SB 13**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 442**, **HB 449**, **HB 450**, **HJR 29**.

Judiciary-Criminal: **HB 288**, **HB 346**, **HB 452**.

Report of Committees

The Committee on Rules reported **HB 3**, **HB 5**, **HB 202** and **HB 398** have been posted for passage in Orders of the Day, January 26, 1988.

The Committee on Rules reported the following Bills have been recommitted:

Business Organizations and Professions: **HB 198**.

Appropriations and Revenue: **HB 87**, **HB 246**, **HB 248**, **HB 249**.

Calendar

HB 72, **HB 79**, **HB 226**, **HB 232**, **HB 233** and **HJR 3** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved that **HB 34** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 25, 1988, roll call on **HB 34** - Appendix A.)

HB 34 was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 34** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 227 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 227** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 25, 1988, roll call on **HB 227** - Appendix A.)

HB 227 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 227** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 222, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 222**. Agreed.

Representative Overstreet moved the adoption of Committee Amendment No. 2 **HB 222**. Agreed.

Representative Kerr moved the adoption of Committee Amendment No. 3 to **HB 222**. Agreed.

Representative Castlemen moved that **HB 222**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See January 25, 1988, roll call on **HB 222** - Appendix A.)

HB 222, as amended, was passed and the title agreed to.

Representative Castlemen moved that the vote by which **HB 222**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 338, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Committee Amendment No. 1 to **HB 338**. Agreed.

Representative Johnson moved that **HB 338**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 25, 1988, roll call on **HB 338** - Appendix A.)

HB 338, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 338**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 14, with Committee Amendment and Floor Amendments attached thereto taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Floor Amendment No. 3 to **HB 14**. Agreed.

Representative Kerr moved the adoption of the Committee Amendment No. 1 to **HB 14**. Agreed.

Representative Kerr moved the adoption of the Floor Amendment No. 4 to **HB 14**. Agreed.

Representative Burch moved the adoption of the Floor Amendment No. 1 to **HB 14**. Agreed.

Representative Kerr moved that **HB 14**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 25, 1988, roll call on **HB 14** - Appendix A.)

HB 14, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 14**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 337, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Amendment No. 1 to **HB 337**. Agreed.

Representative Lear moved the adoption of the Floor Amendment No. 2 to **HB 337**. Agreed.

Representative Stumbo moved that **HB 337**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See January 25, 1988, roll call on **HB 337** - Appendix A.)

HB 337, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 337**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 359 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 359** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 25, 1988, roll call on **HB 359** - Appendix A.)

HB 359 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 359** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 16, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the following Committee Amendment No. 1 to **SB 16**. Agreed.

Representative Clarke moved that **SB 16**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See January 25, 1988, roll call on **SB 16** - Appendix A.)

SB 16, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **SB 16**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 299** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Hancock moved that he be recorded as voting "nay" on **HB 402**, "yea" on **HB 199**, "yea" on **HB 11**, and "yea" on **HB 66**. Agreed.

Representative Farrow moved that he be recorded as voting "yea" on **HB 402** and "yea" on **HB 199**. Agreed.

Representative Long moved that he be recorded as voting "yea" on **HR 36**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 475, by Representative B. Jones: AN ACT declaring the policy of the general assembly in tort liability cases.

HB 476, by Representative Cyrus and Long: AN ACT relating to unemployment compensation.

HB 477, by Representative Little: AN ACT relating to motor carriers.

HB 478, by Representative Little: AN ACT relating to business mergers, liquidations, dispositions, relocations and cessations.

HB 479, by Representative Ford: AN ACT providing for the designation of the Kentucky Country Music Hall of Fame.

HB 480, by Representative Donnermeyer: AN ACT relating to medicaid reimbursement of non-steroidal anti-inflammatory drugs.

HB 481, by Representative Little: AN ACT relating to workers' compensation.

HB 482, by Representatives Richards and Robinson: AN ACT relating to speech pathologists and audiologists and declaring an emergency thereof.

HB 483, by Representatives Hancock and Gregory: AN ACT relating to insurance fees and taxes.

HR 43, by Representative Scorsone: A RESOLUTION calling for the protection of the Henry Watt House from demolition in Lexington, Kentucky.

HR 44, by Representatives Maggard and Arnold: A RESOLUTION adjourning the house of Representatives in honor and memory of former Representative Porter Reynolds.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **HB 281**, **HB 291**, **HB 331**, **HB 347**, **HB 453**.

Banking and Insurance: **HB 361**, **HB 410**, **HB 421**, **HB 446**.

Representative Blevins moved that **HB 38** be withdrawn. Agreed.

Representative Maggard moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Maggard moved the adoption of the following **HR 44**:

HR 44, A RESOLUTION adjourning the House of Representatives in honor and memory of former Representative Porter Reynolds.

In loving tribute and with heartfelt sorrow, we pay tribute and homage to the memory of Representative Porter Reynolds;

WHEREAS, Representative Porter Reynolds has crossed that final bourne from which no traveler returns; and

WHEREAS, Porter Reynolds filled the seat vacated by his son, Representative Russell Reynolds, who died of an apparent heart attack on February 9, 1980; and

WHEREAS, Representative Porter Reynolds, at age 79, was one of the oldest state legislators to be elected to the House of Representatives; and

WHEREAS, Representative Porter Reynolds died yesterday at Good Samaritan Hospital in Lexington; and

WHEREAS, Representative Porter Reynolds was a representative of Breathitt and Lee Counties, most of Wolfe County and part of Perry County;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound sense of bereavement and loss upon the death of former Representative Porter Reynolds.

Section 2. That the members of this honorable body extend their deepest sympathy to a daughter, Wanda Terry of Mount Sterling, two sons, Kermit Reynolds and Wendell Reynolds, both of Jackson and six grandchildren.

Section 3. That when the House of Representatives does adjourn this day, Monday, January 25, 1988, it does so in honor and memory of former Representative Porter Reynolds.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the family of former Representative Porter Reynolds.

HR 44 was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 9**, Representative Donnermeyer; **HB 10**, Representative Donnermeyer; **HB 31**, Representative Donnermeyer; **HB 176**, Representative Arnold; **HB 196**, Representative Reinhardt; **HB 204**, Representative Hatcher; **HB 222**, Representatives Curd, Hourigan, Gray; **HB 227**, Representatives Donnermeyer, Lile; **HB 228**, Representative Hoover; **HB 246**, Representatives Arnold, Donnermeyer; **HB 249**, Representatives Donnermeyer; **HB 307**, Representatives Moberly, Hourigan; **HB 337**, Representatives Donnermeyer; **HB 359**, Representative Donnermeyer; **HB 382**, Representative Donnermeyer; **HB 450**, Representative McBee; **HB 454**, Representative Yates; **HCR 6**, , Representative Worthington.

Representative Burch moved that his name be withdrawn as a co-sponsor of **HB 447**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HB 338**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 5**, by Representative Hancock:

Amend printed copy of **HB 5** on page 2, line 13, after the word "*property*" by inserting the following:

"*valued at less than twenty-five dollars ($25.00)*".

Floor Amendment No. 1 to **HB 398**, by Representative Napier:

Amend printed copy of **HB 398** on page 45, line 1, by adding after the "." the following:

"Section 19. KRS 67A.600 is amended to read as follows:

(1) It is the intention of KRS 67A.360 to 67A.690 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.884 inclusive, for cities of the second class becoming urban-county governments, which sections shall be without force and effect, insofar as applicable to such urban-county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by KRS 67A.360 to 67A.690 shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect, *except as provided in subsection (3) of this section.*

(3) (a) Persons who retired under the provisions of KRS 95.520 to 95.620, or 95.851 to 95.884 in a city which subsequently was merged into an urban-county government, or their surviving spouses or eligible children, shall be granted an annual cost-of-living increase in their retirement or survivor's annuity of four percent (4%) compounded, from the date of retirement until the effective date of this Act. The survivor's annuity shall be determined as if the retired member's annuity had been increased annually by four percent (4%) compounded from the date of retirement until the date of death. For purposes of calculation, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained age fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51), whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51).

(b) A retired member or his surviving spouse or surviving children below the age of eighteen (18) shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due the deceased member. If both the member and the spouse are deceased and there are no eligible surviving children, no retroactive payment shall be made.

(c) The retroactive payment shall be a net figure, determined by subtracting from the figure determined pursuant to paragraph (a) of this subsection annuity increases granted to the retired member or surviving spouse or eligible surviving children pursuant to state law or city or urban-county ordinance or policy in effect at the time the increases were granted.

(d) After receipt of the retroactive increases, persons affected by this section shall be granted the same annual increase granted to retirees pursuant to KRS 67A.690(1), and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded four percent (4%) increases pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1988.

Section 20. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained fifty-one (51) years of age, whichever is later or when he would have been retired for one (1) year or attained fifty-one (51) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2) Notwithstanding the provisions of subsection (1) any member who retires under disability shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall not be compounded and shall be based on the original annuity until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained fifty-one (51) years of age, whichever is later, or would have been retired for one (1) year or would have attained fifty-one (51) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or his surviving spouse or eligible surviving children, shall be granted an annual cost-of-living increase in the retirement or survivor's annuity of four percent (4%) compounded from the date of retirement until the effective date of this Act. For purposes of calculation, the member's or survivors first increase shall occur after the member was retired for one (1) year or attained the age of fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51) whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51).

(b) A retired member or his surviving spouse, or children below the age of eighteen (18) or age twenty-three (23), if engaged in full-time education, shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due to the deceased member. If both the member and the spouse are deceased, and there are no eligible surviving children, no retroactive payment shall be made.

(c) The retroactive payment shall be a net figure, determined by subtracting from the figure determined pursuant to paragraph (a) of this subsection annuity increases granted to the retired member or surviving spouse or eligible children pursuant to subsections (1) or (2) of this section.

(d) After receipt of the retroactive increases, persons of age fifty-one (51) or more affected by this subsection shall be granted the same annual increase granted to retirees who retired July 15, 1980 or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded four percent (4%) increases pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1988.";

On page 45, by renumbering all sections thereafter.

Floor Amendment No. 1 to **HB 420**, by Representative Strong :

Amend printed copy of **HB 420** on page 3, line 1, after the "period" (.) by inserting the following:

The funds provided for in this subsection shall be derived from the state's portion of the severance tax receipts and shall be expended under the authority and control of the respective board of directors of the area development districts in which coal producing and coal impact counties are located.

The Clerk announced the Committee on Labor and Industry meeting for 9:00 a.m., Room 104, January 26, 1988.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00. p.m., Tuesday, January 26, 1988.

On the roll call the vote was yeas 83-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, Lile, Little, Long, Lundergan, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 3-Heleringer, LeMaster, Preston.

The motion to adjourn was adopted.

TUESDAY, JANUARY 26, 1988

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend C. Patterson Clark, First Presbyterian Church, Georgetown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Overstreet.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 25, 1988 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 484, by Representative Crupper: AN ACT relating to veterinarians.

HB 485, by Representatives Hatcher, Priddy, Seum and Will: AN ACT relating to crimes and punishments.

HB 486, by Representatives P. Clark, Seum, Yates, L. Clark, Bronger, Gedling, Heleringer and Burch: AN ACT relating to sheriffs in counties containing a city of the first class.

HB 487, by Representative Stumbo: AN ACT relating to reorganization.

HB 488, by Representative Stumbo: AN ACT relating to the Kentucky public employes deferred compensation system.

HB 489, by Representative Stumbo: AN ACT relating to reorganization of the Kentucky Horse Park.

HB 490, by Representative Stumbo: AN ACT relating to reorganization of revenue estimating and economic analysis functions.

HB 491, by Representative Stumbo: AN ACT relating to reorganization.

HB 492, by Representative Stumbo: AN ACT relating to reorganization.

HB 493, by Representative Farrow: AN ACT relating to archaeological sites.

Report of Committees

The Committee on Rules reported **HB 9**, **HB 23**, **HB 54**, **HB 55** and **HCR 6** have been posted for passage in Orders of the Day, January 27, 1988.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 483**.

Banking and Insurance: **HB 475**.

Education: **HB 472**, **HB 473**, **HB 474**, **HB 482**.

Health and Welfare: **HB 480**.

Labor and Industry: **HB 476**, **HB 478**, **HB 481**.

State Government: **SB 9**, **SB 11**, **HB 479**.

Transportation: **HB 477**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 299**.

Cities: **HB 377**, **HB 408**.

The Clerk announced that **HB 56** has been withdrawn from consideration by the Committee on Cities.

Report of Committees

The Committee on Education reported **HB 176**, with Committee Substitute and Committee Amendment attached thereto, **HB 204**, and **HB 302** wit the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 176. AN ACT relating to teachers retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941;

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years - 92% of benefits~~

~~28 years - 84% of benefits~~

~~27 years - 76% of benefits; and~~

~~(c)~~] Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under paragraph (a) of this subsection who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsection (1)(a) and (b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than one hundred forty dollars ($140) effective July 1, 1986 and one hundred eighty dollars ($180) effective July 1, 1987, multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987 annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the

member's retirement.

(5) Effective July 1, 1986, the monthly allowance of each member retired on or before July 1, 1985, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1987, the monthly allowance of each member retired on or before July 1, 1986, and each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84 and 1986-88 and the cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1986-88 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 3. KRS 161.540 is amended to read as follows:

(1) Effective July 1, *1988* [~~1984~~], each member shall contribute to the retirement system *nine and eight hundred fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 4. Whereas, retirement annuity adjustments are implemented at the beginning of a fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1988.

The Committee Substitute to **HB 176** is as follows:

HB 176. AN ACT relating to teachers retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941;

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years - 92% of benefits~~

~~28 years - 84% of benefits~~

~~27 years - 76% of benefits; and~~

~~(c)~~] Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under paragraph (a) of this subsection who are less than age sixty (60) years.

(2) Any member *who retires* [~~shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and~~] having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsection (1)(a) and (b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than one hundred forty dollars ($140) effective July 1, 1986 and one hundred eighty dollars ($180) effective July 1, 1987, multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987 annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1986, the monthly allowance of each member retired on or before July 1, 1985, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1987, the monthly allowance of each member retired on or before July 1, 1986, and each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84 and 1986-88 and the cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1986-88 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 3. KRS 161.540 is amended to read as follows:

(1) Effective *August* [~~July~~] 1, *1988* [~~1984~~], each member shall contribute to the retirement system *nine and eight hundred fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

The Committee Title Amendment to **HB 176** is as follows:

Amend printed copy of **HB 176**, Title, by deleting "and declaring an emergency".

HB 204, AN ACT relating to school counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "School guidance counselor" or "school counselor" means a person who holds a certificate valid for the position of school counselor;

(2) "Counseling" means the process by which the school counselor assists individuals or groups in their personal, educational, social, and career development;

(3) "Consulting" means the process by which the counselor acts as a resource to teachers, parents, other professionals, and community and agency personnel to enhance their abilities to better provide for the children's development and educational progress; and

(4) "Coordinating" means the process by which the counselor initiates and organizes the use of resources in the home, the school, and the community to ensure a comprehensive guidance and counseling program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this Act is to assure the accessibility of developmental guidance and counseling to all children of elementary school age and to ensure that students benefit from the counseling, consulting, and coordinating services provided by the elementary school guidance counselor.

(2) Each school district shall provide counseling services for all students enrolled in the public elementary schools of that district. An elementary counselor shall not be responsible for more than five hundred (500) students.

Units for the position of elementary counselor shall be allotted as provided by KRS 157.360.

(3) The elementary counselor shall devote full time to elementary counseling duties. Such duties may include the following activities:

(a) Development and implementation of a comprehensive elementary school guidance and counseling program with particular emphasis on the relationship of these services to the home, the family, and the community;

(b) Monitor student academic, personal, and social progress;

(c) Consult with teachers, parents, and administrators;

(d) Provide referral services including psychological, health, educational, cultural, social, and other services for better personal adjustment; and

(e) Activities that create a positive community image of the conditions, problems, and concerns of elementary school age children.

Section 3. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) (a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).

(b) Effective July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board of education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment;

(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.

(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and

(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom

units allotted to the district under this subsection.

(13) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(14) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(15) In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.

(18) Units for elementary school counselors shall be allotted on the basis of one (1) unit for each five hundred (500) elementary students.

HB 302, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.390 is amended to read as follows:

(1) (a) The superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the state board of education or equivalent preparation and who have earned thirty (30) semester hours of approved graduate work or its equivalent, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the state board of education or equivalent preparation.

Rank III. Those holding regular certificates and who have an approved four-year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent; provided, however, that persons holding emergency certificates shall not be classified higher than this rank for calculation of the amount to be included in the foundation program.

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) In determining ranks, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The superintendent of public instruction, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the state board of education by regulation to reclassify downward any teachers currently in Ranks I or II.

(2) (a) The superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

1. Zero to three (3) years;

2. Four (4) to nine (9) years;

3. Ten (10) to fourteen (14) years; and

4. Fifteen (15) or more years.

(b) Effective July 1, 1987, the years of categories of experience shall be as follows:

1. Zero to three (3) years;

2. Four (4) to nine (9) years;

3. Ten (10) to fourteen (14) years;

4. Fifteen (15) to nineteen (19) years; and

5. Twenty (20) or more years.

(3) (a) The state salary schedule shall be amended to increase the base pay five percent (5%) in 1986-87 and an additional five percent (5%) in 1987-88;

(b) In addition, in 1986-87 the category with ten (10) to fourteen (14) years of experience shall also receive a three hundred dollar ($300) increase in base pay and the category with fifteen (15) or more years of experience shall receive a seven hundred ($700) increase in base pay; and

(c) In 1987-88 the category with ten (10) to fourteen (14) years of experience shall receive an additional five hundred dollars ($500) in base pay, the category with fifteen (15) to nineteen (19) years of experience shall receive an additional increase of nine hundred dollars ($900) in base pay, and the category with twenty (20) or more years of experience shall receive an additional increase of one thousand three hundred dollars ($1,300) in base pay.

(4) *(a) The rank and experience of the teacher shall be determined on September 15. If a teacher is certified for a higher rank by the department of education between September 15 and January 31, then five-tenths (0.5) of the classroom unit shall be based on the September 15 rank of the teacher and five-tenths (0.5) of the unit shall be based on the rank earned by the teacher by January 31 of the school year.*

(b) The amount to be included in each school year in the foundation program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days. Provided, the amount to be included for units allotted under KRS 157.360(9), (11), (12), (13) and (14) shall be increased proportionately if the personnel for such units are employed for longer than the regular school term and such employment is approved by the superintendent of public instruction under Kentucky administrative regulations of the state board. Where the actual number of teachers employed by the district varies from the number allowed under the provisions of KRS 157.310 to 157.440, the number to be included in each rank shall be in the same ratio that the number of teachers actually in each rank is to the total number of teachers employed.

(5) The amount to be included in the foundation program for other current expenses shall be determined by multiplying the number of classroom units by the amounts set forth in the biennial budget.

(6) The amount to be included in the foundation program for capital outlay shall be determined by multiplying the number of classroom units except those allotted pursuant to KRS 157.360(10)(c) and (d) by the amounts set forth in the biennial budget.

(7) The amount to be included in the foundation program of each district for transportation shall be determined by multiplying the aggregate attendance of transported children by the allowable cost per pupil per day for that district determined in accordance with the provisions of KRS 157.370.

(8) The total amount of money distributable to each district from the public school foundation program fund shall be the sum of the allotments in subsections (4), (5), (6) and (7) of this section.

The Committee on Education reported **HB 312** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 312, AN ACT relating to school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.570 is amended to read as follows:

(1) Each board of education shall appoint a bank, trust company or savings and loan association to serve as its depository[~~, and~~] if its annual receipts from all sources exceed one hundred thousand dollars ($100,000) [~~it may designate three (3) depositories except boards of education of school districts in counties containing cities of the first class may designate up to five (5) depositories~~]. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.

(2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education and the state board of education. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the rules and regulations of the state board of education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the superintendent of public instruction and approved by the state board of education.

(3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.

(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

(5) A board of education may select as many depositories as it wishes.

The Committee on Labor and Industry reported **HB 413**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 413. AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.395 is amended to read as follows:

As used in KRS 367.397 to 367.407 unless the context requires otherwise:

(1) "Club" means *any* buying club *or vacation club.*

(2) "Contract" means any oral or written agreement by which one becomes a member of a club.

(3) "Buying club" means any person, corporation, unincorporated association, or other organization which for a consideration provides or purports to provide its members or the members of any other buying club with the ability to purchase goods or services at discount prices; except that such organization shall not include any buying club in which persons receive discount buying services incidentally as part of a package of services provided to, or available to, such individuals on account of membership in such organization which is not organized for the profit of any person or corporation or which does not have as one of its primary purposes or businesses the provision of discount buying services.

(4) "Member" or "membership" means a status by which any natural person is entitled to any of the benefits of a club.

(5) "Prepayment" means any payment for service or merchandise made before the service is rendered or the merchandise is received. It is not a prepayment if a payment for service is made on the same day the service is rendered. Money received by a club from a financial institution upon assignment of a contract shall be considered prepayment when and to the extent the member is required to make prepayments to the financial institution pursuant to the contract.

(6) "Vacation club" means any person, corporation, unincorporated association, or other organization which for a consideration provides or purports to provide its members or the members of any other vacation club with any vacation, vacation plan or services connected with the scheduling of a vacation at discount prices.

Section 2. KRS 367.397 is amended to read as follows:

(1) Any person who has elected to become a member of a club may cancel such membership by:

(a) Giving written notice any time before midnight of the fifth business day following the date on which membership was attained. Such cancellation shall be without liability on the part of the member and shall entitle the member to a refund of the entire consideration paid for the contract; or

(b) Giving written notice any time after the fifth business day following the date on which membership was attained. Such cancellation shall be on a pro rata daily basis, the member being responsible only for that portion of the contract consideration representing the time elapsed on the contract and being entitled to a refund of that portion of the fee representing the days remaining on the contract at date of cancellation. If the contract duration is for the life of the member, the daily value shall be determined by standard actuarial tables.

(2) Notice of cancellation *shall* [~~must~~] be in writing and delivered personally or by mail. If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage paid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the member not to be bound by the contract. If delivered personally, the notice is to be accepted by any agent or employe of the club, and a receipt for the notice *shall* [~~must~~] be given by that agent or employe to the person cancelling.

(3) The entitled refund shall be delivered to the member within ten (10) days after notice of cancellation is given.

(4) Rights of cancellation may not be waived or otherwise surrendered.

(5) Cancellation shall not relieve the member from paying for any *vacation or* merchandise *which has been* purchased or ordered prior to the date of cancellation.

Section 3. KRS 367.399 is amended to read as follows:

(1) A copy of every contract shall be delivered to the member at the time the contract is signed. Every contract *shall* [~~must~~] be in writing, *shall* [~~must~~] be signed by the member, *shall* [~~must~~] designate the date on which the member signed the contract, and *shall* [~~must~~] state, clearly and conspicuously in bold-face type of a minimum size of fourteen (14) points, the following: **"MEMBERS' RIGHT TO CANCEL"**

"If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the company. Certified mail would provide greater protection than first-class mail, but is not necessary. If you deliver the notice personally, you are entitled to a receipt. Your notice must make known that you do not wish to be bound by the contract. If the notice is delivered or mailed before midnight of the fifth business day after you sign this contract, you are entitled to a refund of the entire consideration paid for the contract. Other cancellation entitles you to a pro-rata refund for those days remaining on the contract. The notice must be delivered or mailed to (insert name and mailing address of company). If you cancel, the club is required to return, within ten (10) days of the date on which you give notice of cancellation, any payments you have made."

(2) Until the buying club *or vacation club* has complied with this section, the member may cancel the contract by notifying the [~~buying~~] club in any manner and by any means of his intention to cancel and is then entitled to a refund of the entire consideration paid for the contract.

Section 4. KRS 367.403 is amended to read as follows:

(1) Every [~~buying~~] club that has a membership fee in excess of thirty-five dollars ($35.00) shall maintain a bond of fifty thousand dollars ($50,000) issued by a surety company admitted to do business in this state.

(2) The bond required by this section shall be in favor of the attorney general of the Commonwealth of Kentucky for the benefit of any member who suffers loss of prepayment made pursuant to a contract entered into after July 15, 1982 due to insolvency of the club or the cessation of business by the club, or failure by the club to perform under any contract. A copy of the bond shall be filed with the attorney general prior to the making of any membership contract by a club. Any person claiming against the bond may maintain an action at law against the club and the surety. Failure to so maintain a bond as required by this section shall make the principals of any club personally liable for the claims of members.

(3) The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein shall in no event exceed the amount of the bond.

The Committee Amendment No. 1 to **HB 413** is as follows:

Amend printed copy of **HB 413**, on page 4, line 1, by inserting after "merchandise" the following: "*actually used by the consumer*" and by deleting on page 4, line 1, "*which has been*"; and

On page 4, line 2, by bracketing and striking through "purchased or ordered".

The Committee on Banking and Insurance reported **HB 175**, with Committee Substitute and Committee Amendment attached thereto, and **HB 322**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 175, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The automobile insurer of an insured who damages another person's automobile in an automobile accident due to the negligence of the insured shall compensate the owner of the automobile damaged by its insured for loss of use of the automobile, regardless of its use, by providing the owner of the damaged automobile with a substitute automobile no later than forty-eight (48) hours after the accident is reported to the insurer and for such time as may be reasonably necessary to repair or replace it.

The Committee Substitute to **HB 175** is as follows:

HB 175, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.39-110 TO 304.39-120 IS CREATED TO READ AS FOLLOWS:

Loss of use of a motor vehicle, regardless of the type of use, shall be recognized as an element of damage in any property damage liability claim.

The Committee Title Amendment to **HB 175** is as follows:

Amend printed copy of Committee Substitute to **HB 175**, by amending the title to read as follows: "AN ACT relating to motor vehicle insurance."

HB 322, AN ACT relating to automobile liability insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In an automobile liability insurance policy, the insurer and the named insured may agree to exclude any person or persons from coverage as operators of the insured vehicle or vehicles. The names of persons thus excluded shall be set forth in the policy, or in an endorsement to the policy signed by both parties.

The Committee Substitute to **HB 322** is as follows:

HB 322, AN ACT relating to automobile liability insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In a motor vehicle liability insurance policy, the insurer and the named insured may agree to exclude any person or persons from coverage as operators of the insured vehicle or vehicles. The names of persons thus *excluded shall be set forth in the policy, or in an endorsement to the policy signed by the insured and the insurer. Where the named insured is married, the signatures of the insured and the spouse shall be required to exclude any person, including a spouse, from coverage under the policy.*

The Committee Title Amendment to **HB 322** is as follows:

Amend printed copy of Committee Substitute to **HB 322**, by amending the title to read as follows: "AN ACT relating to motor vehicle insurance."

The Committee on Judiciary-Civil reported **HB 386**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 386, AN ACT relating to dissolution of marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.025 is amended to read as follows:

The statements of a petition for dissolution of marriage concerning the residence of the parties and irretrievable breakdown of the marriage shall not be taken as true because of the respondent's failure to deny the statements, and the facts as to residence of the parties must be *proven* [~~proved by one or more credible witnesses~~].

The Committee Amendment No. 1 to **HB 386** is as follows:

Amend printed copy of **HB 386**, on page 1, line 2, before "The" insert "*(1)*"; and

On page 1, line 7, delete "*proven*" and remove the bracket and strikes from "[~~proven by one or more credible~~"; and

On page 1, line 8, remove the strikes and bracket from "~~witnesses~~]"; and

On page 1, after line 8, insert the following:

"*(2) The petitioner or respondent in an action for dissolution of marriage may be considered a credible witness, within the meaning of subsection (1) of this section, to be utilized in order to prove residency of the parties. The provisions of this subsection shall be retroactive in effect.*

Section 2. Whereas, the general assembly considers the law regarding proof of residence of parties in a dissolution proceeding to be ambiguous, and such ambiguity affects ongoing dissolution actions, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Committee Title Amendment to **HB 386** is as follows:

Amend printed copy of **HB 386**, by amending the title to read as follows:

"AN ACT relating to dissolution of marriage and declaring an emergency."

Orders of the Day

HB 5, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Floor Amendment No. 1 to **HB 5**. Agreed.

Representative Bruce moved that **HB 5**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 26, 1988, roll call on **HB 5** - Appendix A.)

HB 5, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 5**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Amendment No. 1 to **HB 398**. Agreed.

Representative Meyer moved that **HB 398**, as amended, be passed.

Representative Napier moved the adoption of Floor Amendment No. 1 to **HB 398**.

Representative Meyer inquired whether Floor Amendment No. 1 was germane to **HB 398**.

The Speaker ruled Floor Amendment No. 1 was not germane to **HB 398**.

On the roll call the vote was: Yeas 96, Nays 0. (See January 26, 1988, roll call on **HB 398** - Appendix A.)

HB 398, as amended, was passed and title agreed to.

Representative Meyer moved that the vote by which **HB 398**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute to **HB 202**. Agreed.

Representative Mason moved that **HB 202**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 26, 1988, roll call on **HB 202** - Appendix A.)

HB 202, by way of Committee Substitute, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 202**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 316** be recommitted to the Committee on Judiciary-Civil. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 494, by Representative Noe: AN ACT relating to educational standards and practices and declaring an emergency.

HB 495, by Representatives Siler and J. Brown: AN ACT relating to underground coal mine safety.

HB 496, by Representatives Yates, L. Clark, Adkins, White, Seum, P. Clark, Priddy, Guenthner, Gedling, Heleringer, Donnermeyer, Lundergan, Will, O'Brien, Hatcher, Bronger, Cyrus and Casebier: AN ACT relating to sheriffs.

HB 497, by Representative B. Smith: AN ACT relating to savings and loan associations.

HB 498, by Representative Maggard: AN ACT relating to revenue and taxation.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 294**.

Appropriations and Revenue: **HB 405**.

Natural Resources and Environment: **HB 289**, **HJR 31**, **HCR 17**.

The Clerk announced that **HB 380** has been withdrawn from consideration by the Committee on Appropriations and Revenue.

Report of Committees

The Committee on Transportation reported **HB 68** and **HJR 27** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.130 is amended to read as follows:

(1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the bureau for the construction or maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the bureau to bid on such work.

(2) All applications for a certificate of eligibility shall be made to the bureau in writing, and the bureau shall act upon the application within thirty (30) days after the application is filed.

(3) A certificate of eligibility is not necessary where the bureau purchases equipment, material and supplies directly[~~, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots~~].

HJR 27, A JOINT RESOLUTION directing the Secretary of Transportation to name the connector road between Kentucky Routes 16 and 17 after Mr. Howard Litzler.

WHEREAS, the Kentucky Department of Highways has commenced construction of a connector road between Kentucky Route 16 in the City of Covington and Kentucky Route 17 in Fort Wright; and

WHEREAS, this connector will serve as an important link between the two Northern Kentucky communities; and

WHEREAS, the late Howard Litzler was a distinguished citizen and civic leader representing the Latonia section of Covington, which will be the terminus of this new connector road; and

WHEREAS, Mr. Litzler also had strong ties with the City of Fort Wright as his son Thomas Litzler served as a distinguished mayor of that city for several terms; and

WHEREAS, the dedication of this road would be a fitting and appropriate honor to the late Mr. Howard Litzler to memorialize his contributions to the cities of Covington and Fort Wright;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation is directed to name the connector road between Kentucky Routes 16 and 17 after the late Howard Litzler.

Section 2. That the Secretary of Transportation assist the City of Covington and the Board of Commissioners of Kenton County to ensure that these local government bodies are supported as they seek to place the appropriate plaques or signs commemorating this route.

Section 3. That a copy of this resolution be transmitted to the Secretary of Transportation, Mayor of Covington, Mayor of Fort Wright and the County Judge/Executive of the Kenton County Fiscal Court.

The Committee on Transportation reported **HB 65**, with Committee Amendment attached thereto, and **HB 67** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 65. AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.650 is amended to read as follows:

(1) Every certificate or permit shall be renewed before *February* [~~January~~] 1 of each year. Application for renewal shall be in such form as the bureau may require.

(2) No motor vehicle shall be operated after *February* [~~January~~] 1 of each year unless the requisite fee as hereinafter provided for is paid.

(3) A certificate or permit not renewed within one (1) calendar year after renewal date shall automatically become null and void and cannot be reinstated. Nothing herein contained shall prohibit the filing of a new application.

(4) The bureau shall not renew any certificate or permit if such certificate or permit has been revoked, or if suspended, during the period of suspension. A certificate or permit shall not be considered as revoked or suspended when an appeal is pending in the Franklin Circuit Court or in the Court of Appeals from an order of revocation or suspension until said appeal has been decided by the courts.

(5) For the renewal of any certificate or permit the bureau shall receive a fee of twenty-five dollars ($25). *Except that for the annual renewal of interstate commerce commission authorized motor carriers the department shall receive a fee of ten dollars ($10).*

The Committee Amendment No. 1 to **HB 65** is as follows:

Amend printed copy of **HB 65**, on page 1, line 3, by deleting the word "*February*" and removing the brackets and the strikethrough from the word "January".

On page 1, line 7, by deleting the word "*February*" and removing the brackets and the strikethrough from the word "January".

HB 67, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.052 is amended to read as follows:

(1) On or before *January* [~~March~~] 1 of each year and as a condition precedent to the use of the highways, every motor carrier engaged in the driveaway business as defined by KRS 281.014(5) shall pay to the bureau of vehicle regulation an annual license fee of two hundred fifty dollars ($250) which shall be in lieu of the fee set out in KRS 186.050.

(2) In addition to the annual license fee imposed by subsection (1) each motor carrier operating as a driveaway shall procure from the bureau of vehicle regulation a license tag to be prominently displayed on each unit transported by this method. For such license tag, the carrier shall pay to the bureau a fee of five dollars ($5.00) each. The said tag may be transferred from one transported unit to another for re-use.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 202**. Agreed.

Representative Long moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Long moved that he be recorded as voting "yea" on **HB 202**. Agreed.

Representative B. Smith moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 14**, **HB 34**, **HB 227**, **HB 337**, **HB 338**, **HB 222**, and **SB 16**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 5**. Agreed.

Representative K. Harper moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative K. Harper moved that he be recorded as voting "yea" on **HB 5**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Cline; **HB 27**, Representative Hatcher; **HB 33**, Representative Hoover; **HB 71**, Representative Hoover; **HB 82**, Representative Hoover; **HB 89**, Representative Hoover; **HB 176**, Representative Deskins, Little; **HB 178**, Representative Hoover; **HB 188**, Representative Hoover; **HB 204**, Representative Blevins, Hatcher; **HB 228**, Representative Robinson; **HB 248**, Representative Layman; **HB 249**, Representative Layman; **HB 326**, Representative Hoover; **HB 333**, Representative Hoover; **HB 374**, Representative Hoover; **HB 392**, Representative Hatcher; **HB 413**, Representative Will; **HB 414**, Representative Hoover; **HB 454**, Representative P. Richardson; **HB 463**, Representative Hatcher; **HB 482**, Representative Keith; **HB 486**, Representative Hatcher; **HB 494**, Representative Maggard; **HB 496**, Representative Burch.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Title Amendment to **HB 398**, by Representative Napier:

Amend printed copy of **HB 398**, by changing the title thereof to read "AN ACT relating to retirement.".

The Clerk announced the following meetings:

Committee on Education, January 27, 1988, noon.

Committee on Counties and Special Districts, January 27, 1988, 8:30 a.m.

Committee on Rules. State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 27, 1988.

On the roll call the vote was yeas 79-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Guenthner, Hancock, Handy, J. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Maggard, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 5-Bronger, Deskins, Heleringer, LeMaster, Seum.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 27, 1988

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Steve Smith, Carlisle Christian Church, Carlisle.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Barrows.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 26, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 10, SCR 1, HB 307**.

Introduction of Bills and Resolutions

HB 499, by Representative Ballard: AN ACT relating to transfers to minors.

HB 500, by Representatives J. Brown and McElroy: AN ACT relating to surface coal mining.

HB 501, by Representative Burch: AN ACT relating to handicapped children.

HB 502, by Representative Lundergan: AN ACT relating to interscholastic athletics.

HR 45, by Representative Blandford: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HJR 46, by Representatives Siler, Keith and White: A JOINT RESOLUTION authorizing and directing the Secretary of the Transportation Cabinet to name the bridge being built over Laurel Lake in memory of Mr. Glen Cary, former Chief District Engineer of District 11.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 484**.

Appropriations and Revenue: **HB 498**.

Banking and Insurance: **HB 497**.

Counties and Special Districts: **HB 486, HB 496**.

Education: **HB 494**.

Health and Welfare: **HB 471**.

Judiciary-Criminal: **HB 485, HB 493.**

Natural Resources and Environment: **HB 495.**

State Government: **HB 487, HB 488, HB 489, HB 490, HB 491, HB 492.**

Report of Committees

The Committee on Rules reported **HB 72, HB 79, HB 226, HB 232, HB 233** and **HJR 3** have been posted for passage in Orders of the Day, January 28, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Education: **HB 6, HB 345, HB 348, HB 365, HB 418, HB 474.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 422** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 422. AN ACT relating to ambulance service districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 108.160 is amended to read as follows:

Single city or county districts may be dissolved in the following manner:

(1) Upon the filing of a certified petition of *a number of registered voters equal to or greater than twenty-five percent (25%) of the average of the voters living in the taxing district and voting in the last four (4) general elections* [~~one hundred (100) or more qualified voters in the district~~] or upon the determination of the fiscal court or city legislative body that the abolishment of the district is in the best interest of the inhabitants of the county or city, the fiscal court or city legislative body (as appropriate) shall adopt a resolution submitting to the qualified voters of the county or city as to whether the district should be dissolved and the imposition of the special ad valorem tax discontinued. A certified copy of the resolution of the fiscal court or city legislative body (as appropriate) shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed before the voters.

(2) The question shall be in substantially the following form: "Are you in favor of dissolving the emergency ambulance service district for (insert name of city or county) and discontinuing the special ad valorem tax that is imposed for the maintenance and operation of the district?"

(3) If a majority of those voting on the question favor dissolving the district and discontinuing the imposition of the special ad valorem tax the county clerk or the collector of city taxes shall remove the levy of the special ad valorem tax from the tax bills of the property owners of the district and the district shall be dissolved by order of the fiscal court or the city legislative body. *If less than a majority of those voting on the question favor dissolving the district the district shall be continued and no future vote may be taken on the question of dissolving the district until the next regular election four (4) years later.*

(4) A resolution for the dissolution of the district shall not be considered to have any legal effect if contractual obligations assumed prior to the time of the passage of the resolution by the board have not been met.

The Committee on Energy reported **HB 311** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 311, AN ACT relating to water utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any utility subject to this chapter which is engaged in the distributing or furnishing of water to or for the public, for compensation, may, subject to the approval of the commission, make a charge or "tapping fee" for installing service to its customers.

(2) The "tapping fee" shall include charges for a service tap, meter, meter vault, and installation thereof.

The Committee on Energy reported **HB 367** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 367, AN ACT relating to the regulation of water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.015 is amended to read as follows:

Notwithstanding any of the provisions of KRS Chapter 74, any water district, combined water, gas or sewer district, or water commission shall be a public utility and shall be subject to the jurisdiction of the public service commission in the same manner and to the same extent as any other utility as defined in KRS 278.010, except:

(1) As provided in Section 4 of this Act; or

(2) When a wholesale supplier selling water to a water district, combined water, gas or sewer district, or water commission increases its rates, the water district, combined water, gas or sewer district shall have the authority to increase its rates commensurate with the wholesale supplier without prior approval by the commission.

Within twenty (20) days after any such increase in rates, the district shall file its revised tariffs with the commission, together with a copy of the notice from its wholesale supplier showing the increase in the rate charged to the utility, and a statement of the volume of purchased water used to calculate the increase in rates. The commission shall approve the filing or establish revised rates by order no later than thirty (30) days after the above documents are filed with it. Prior to or at the time of the first billing of the new rates, the district shall give notice to its customers of the increase.

Section 2. KRS 278.012 is amended to read as follows:

Notwithstanding any other provisions of the Kentucky Revised Statutes, any water association formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273 is deemed to be and shall be a public utility and shall be subject to the jurisdiction of the public service commission in the same manner and to the same extent as any other utility as defined in KRS 278.010, except:

(1) As provided in Section 4 of this Act; or

(2) When a wholesale supplier selling water to a water association increases its rates, the water association shall have the authority to increase its rates commensurate with the wholesale supplier without prior approval by the commission.

Within twenty (20) days after any such increase in rates, the association shall file its revised tariffs with the commission, together with a copy of the notice from its wholesale supplier showing the increase in the rate charged to the utility, and a statement of the volume of purchased water used to calculate the increase in rates. The commission shall approve the filing or establish revised rates by order no later than thirty (30) days after the above documents are filed with it. Prior to or at the time of the first billing of the new rates, the district shall give notice to its customers of the increase.

Section 3. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the public service commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, *except that the commission shall not refuse or modify an application submitted under Section 4 of this Act without consent by the parties to the agreement.* Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) No person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control, any utility, by sale of assets, transfer of stock or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section shall apply to any construction project undertaken by a water association, commission, district, or combined water, gas or sewer district formed under KRS Chapter 74 or 273, which project is financed in whole or in part under the terms of an agreement between the water utility and the U.S. farmers home administration or the U.S. department of housing and urban development. Because federal financing of such projects entails prior review and oversight by the federal agency and obligates the utility to certain actions, and because conflicting requirements by the federal agency and the public service commission may place the water utility in an untenable position and delay or jeopardize such projects, it is declared to be the policy of the Commonwealth that such agreements shall be accepted by the public service commission, and that the commission shall not prohibit a water utility from fulfilling its obligations under such an agreement.

(2) No agreement between a water utility and federal agency under this section shall take effect until thirty (30) days after such agreement, together with necessary applications and documentation, is filed with the commission, unless the commission acts within a lesser time. The commission in its administrative regulations shall list the specific documents required to be filed under this subsection.

(3) The commission shall review the project and the agreement, may recommend changes to the utility and the federal agency, but shall not modify or reject any portion of the agreement on its own authority. The commission shall issue a certificate of necessity and convenience and such other orders as may be required to implement the terms of the agreement no later than thirty (30) days after filing.

(4) The commission shall not prohibit the inclusion of any cost or the use of any accounting procedure in reviewing or setting the rates of the utility if such cost or procedure is required as a condition for federal financing of a construction project under an approved agreement between the water utility and federal agency.

The Committee on Judiciary-Civil reported **HB 323**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 323. AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(2) This Act must require or permit filing the document in the office of the secretary of state.

(3) The document shall contain the information required by this Act. It may contain other information as well.

(4) The document shall be typewritten or printed.

(5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.

(6) The document shall be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain: the corporate seal; an attestation by the secretary or an assistant secretary; an acknowledgment, verification, or proof; or a statement regarding the preparer of the document which complies with KRS 382.335.

(8) If the secretary of state has prescribed a mandatory form for the document under Section 2 of this Act, the document shall be in or on the prescribed form.

(9) The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, the organization tax and any penalty required by this Act or other law to be collected by the office of the secretary of state.

(10) One (1) of such exact or conformed copies shall then be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.

SECTION 2. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state may prescribe and furnish on request forms for:

(a) An application for a certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent; and

(e) The annual report.

If the secretary of state so requires, use of these forms shall be mandatory.

(2) The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this Act but their use shall not be mandatory.

SECTION 3. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a) Articles of incorporation	*$25*
(b) Application for use of indistinguishable name	*$10*
(c) Application for reserved name	*$10*
(d) Notice of transfer of reserved name	*$10*
(e) Application for registered name	*$10*
(f) Application for renewal of registered name	*$10*
(g) Corporation's statement of change of registered agent or registered office or both	*$10*
(h) Agent's statement of change of registered office for each affected corporation	*$10*
(i) Agent's statement of resignation	*No fee*
(j) Amendment of articles of incorporation	*$25*
(k) Restatement of articles of incorporation	*$25*
(l) Amended and restated articles	*$50*
(m) Articles of merger or share exchange	*$25*
(n) Articles of dissolution	*$15*
(o) Articles of revocation of dissolution	*$10*
(p) Certificate of administrative dissolution	*No fee*
(q) Application for reinstatement following administrative dissolution	*$100*

(r) Certificate of reinstatement	*No fee*
(s) Certificate of judicial dissolution	*No fee*
(t) Application for certificate of authority	*$60*
(u) Application for amended certificate of authority	*$40*
(v) Application for certificate of withdrawal	*$20*
(w) Certificate of revocation of authority to transact business	*No fee*
(x) Annual report	*$10*
(y) Articles of correction	*$10*
(z) Application for certificate of existence or authorization	*$10*
(aa) Any other document required or permitted to be filed by this Act	*$10*

(2) The secretary of state shall collect a fee of $10 each time process is served on him under this Act. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.

(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) Fifty (50) cents a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section and subsection (3) of Section 5 of this Act, a document accepted for filing shall be effective:

(a) At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document; or

(b) At the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date, and if it does so the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth (90th) day after the date it is filed.

(3) A document filed in accordance with subsections (1) and (2) of this section shall be effective regardless of a failure to file the document with the county clerk pursuant to subsection (10) of Section 1 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A domestic foreign corporation may correct a document filed by a secretary of state if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document is corrected:

(a) By preparing articles of correction that:

1. Describe the document (including its filing date) or attach a copy of it to the articles;

2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(b) By delivering the articles to the secretary of state for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

SECTION 6. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If a document delivered to the office of the secretary of state for filing satisfies the requirements of Section 1 of this Act, the secretary of state shall file it.

(2) The secretary of state files a document by stamping or otherwise endorsing "Filed," together with his name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee. After filing a document, except as provided in Sections 31 and 161 of this Act, the secretary of state shall deliver the document copies, with the filing fee receipt (or acknowledgment of receipt if no fee is required) attached, to the domestic or foreign corporation or its representative.

(3) If the secretary of state refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(4) The secretary of state's duty to file documents under this section shall be ministerial. His filing or refusal to file a document shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 7. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state refuses to file a document delivered to his office for filing, the domestic or foreign corporation may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by

petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of his refusal to file.

(2) The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 8. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A certificate attached to a copy of the document filed by the secretary of state, bearing his signature (which may be in facsimile) and the seal of this state, shall be conclusive evidence that the original document is on file with the secretary of state.

SECTION 9. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(2) A certificate of existence or authorization shall set forth:

(a) The domestic corporation's corporate name or the foreign corporation's corporate name used in this state;

(b) That the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to transact business in this state;

(c) That all fees, taxes, and penalties owed to this state have been paid, if:

1. Payment is reflected in the records of the secretary of state; and

2. Non-payment affects the existence or authorization of the domestic or foreign corporation;

(d) That its most recent annual report required by Section 173 of this Act has been delivered to the secretary of state;

(e) That articles of dissolution have not been filed; and

(f) Other facts of record in the office of the secretary of state that may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this state.

SECTION 10. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person commits an offense if he signs a document he knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

(2) An offense under this section shall be a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SECTION 11. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state shall have the power reasonably necessary to perform the duties required of him by this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

In this Act:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this Act.

(5) "Deliver" includes mail.

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in Section 13 of this Act.

(8) "Employe" includes an officer but not a director. A director may accept duties that make him also an employe.

(9) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Governmental subdivision" includes authority, county, district, and municipality.

(12) "Includes" denotes a partial definition.

(13) "Individual" includes the estate of an incompetent or deceased individual.

(14) "Means" denotes an exhaustive definition.

(15) "Notice" is defined in Section 13 of this Act.

(16) "Person" includes individual and entity.

(17) "Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(18) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(19) "Record date" means the date established under Sections 33 to 67 of this Act on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this Act. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(20) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of Section 89 of this Act for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(21) "Share" means the unit into which the proprietary interests in a corporation are divided.

(22) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(23) "State" when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(24) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(26) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this Act are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this Act to vote generally on the matter are for that purpose a single voting group.

SECTION 13. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Notice under this Act shall be in writing unless oral notice is reasonable under the circumstances.

(2) Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective when mailed, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(4) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice shall be effective when communicated if communicated in a comprehensible manner.

(7) If this Act prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Act, those requirements shall govern.

SECTION 14. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this Act, the following identified as a shareholder in a corporation's current record of shareholders shall constitute one (1) shareholder:

(a) Three (3) or fewer co-owners;

(b) A corporation, partnership, trust, estate, or other entity;

(c) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(2) For purposes of this Act, shareholdings registered in substantially similar names shall constitute one (1) shareholder if it is reasonable to believe that the names represent the same person.

SECTION 15. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

One (1) or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

SECTION 16. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of Section 26 of this Act;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(d) The mailing address of the corporation's principal office; and

(e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporation;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares;

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this Act is required or permitted to be set forth in the bylaws; and

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall

not eliminate or limit the liability of a director:

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. Under Section 88 of this Act; or

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 85 of this Act.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed by the secretary of state.

(2) The secretary of state's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in proceedings by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

SECTION 18. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this Act, shall be jointly and severally liable for all liabilities created while so acting.

SECTION 19. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organization meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organization meeting at the call of a majority of the incorporators:

1. To elect directors and complete the organization of the corporation; or

2. To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this Act to be taken by incorporators at an organization meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(3) An organization meeting may be held in or out of this state.

SECTION 20. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(2) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

SECTION 21. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4) of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(a) Procedures for calling a meeting of the directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws shall remain effective during the emergency. The emergency bylaws shall not be effective after the emergency ends.

(3) Corporate action taken in good faith in accordance with the emergency bylaws:

(a) Shall bind the corporation; and

(b) Shall not be used to impose liability on a corporate director, officer, employe, or agent.

(4) An emergency shall exist for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

SECTION 22. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Every corporation incorporated under this Act shall have the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(2) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this Act only if permitted by, and subject to all limitations of, the other statute.

SECTION 23. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless its articles of incorporation provide otherwise, every corporation shall have perpetual duration and succession in its corporate name and shall have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to:

(a) Sue and be sued, complain and defend in its corporate name;

(b) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(c) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;

(d) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(e) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(f) Purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

(g) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(h) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(i) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(j) Conduct its business, locate offices, and exercise the powers granted by this Act within or without this state;

(k) Elect directors and appoint officers, employes and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(l) Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employes, and agents;

(m) Make donations for the public welfare or for charitable, scientific, or educational purposes;

(n) Transact any lawful business that will aid governmental policy; and

(o) Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

(2) Notwithstanding the provisions of subsection (1)(b) of this section, the presence or absence of a corporate seal on or from a writing shall neither add to nor detract from the legality thereof nor affect its validity in any manner or respect.

SECTION 24. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) In anticipation of or during an emergency defined in subsection (4) of this section, the board of directors of a corporation may:

(a) Modify lines of succession to accommodate the incapacity of any director, officer, employe, or agent; and

(b) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(2) During an emergency defined in subsection (4) of this section, unless emergency bylaws provide otherwise;

(a) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(b) One (1) or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(3) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(a) Shall bind the corporation; and

(b) Shall not be used to impose liability on a corporate director, officer, employe, or agent.

(4) An emergency shall exist for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

SECTION 25. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the validity of corporate action shall not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged in a proceeding by:

(a) A shareholder against the corporation to enjoin the act;

(b) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employe, or agent of the corporation; or

(c) The attorney general under Section 148 of this Act.

(d) In a shareholder's proceeding under subsection (2)(a) of this section to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss (other than anticipated profits) suffered by the corporation or another party because of enjoining the unauthorized act.

SECTION 26. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporate name:

(a) Shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; and

(b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by Section 22 of this Act and its articles or incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Section 27 or 28 of this Act;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015.

(3) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(5) This Act does not control the use of fictitious names.

(6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 27. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person may reserve the exclusive use of a corporate name including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a non-renewable one hundred twenty (120) day period.

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

SECTION 28. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by Section 158 of this Act, if the name is distinguishable upon the records of the secretary of state from the corporate names that are not available under subsection (2)(c) of Section 26 of this Act.

(2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by Section 158 of this Act, by delivering to the secretary of state for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by Section 158 of this Act, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed shall renew the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this Act or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

SECTION 29. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each corporation shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 30. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the corporation;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any corporation for which he is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 31. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign his agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(2) After filing the statement the secretary of state shall mail one (1) copy to the registered office (if not discontinued) and the other copy to the corporation at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first (31st) day after the date on which the statement was filed.

SECTION 32. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's registered agent shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(2) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service shall be perfected under this subsection at the earliest of:

(a) The date the corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

SECTION 33. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue. If more than one (1) class of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class, and, prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class shall have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by Section 34 of this Act.

(2) The articles of incorporation shall authorize:

(a) One (1) or more classes of shares that together have unlimited voting rights; and

(b) One (1) or more classes of shares (which may be the same class or classes as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one (1) or more classes of shares that:

(a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited by this Act;

(b) Are redeemable or convertible as specified in the articles of incorporation:

1. At the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event;

2. For cash, indebtedness, securities, or other property; or

3. In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(d) Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(4) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) of this section shall not be considered exhaustive.

SECTION 34. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the articles of incorporation so provide, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights (within the limits set forth in Section 33 of this Act) of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) One (1) or more series within a class before the issuance of any shares of that series.

(2) Each series of a class shall be given a distinguishing designation.

(3) All shares of a series shall have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

(4) Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that set forth:

(a) The name of the corporation;

(b) The text of the amendment determining the terms of the class or series of shares;

(c) The date it was adopted; and

(d) A statement that the amendment was duly adopted by the board of directors.

SECTION 35. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued shall be outstanding shares until they are reacquired, redeemed, converted, or cancelled.

(2) The reacquisition, redemption, or conversion of outstanding shares shall be subject to the limitations of subsection (3) of this section and to Section 48 of this Act.

(3) At all times that shares of the corporation are outstanding, one (1) or more shares that together have unlimited voting rights and one (1) or more shares that together are entitled to receive the net assets of the corporation upon dissolution shall be outstanding.

SECTION 36. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may:

(a) Issue fractions of a share or pay in money the value of fractions of a share;

(b) Arrange for disposition of fractional shares by the shareholders; and

(c) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(2) Each certificate representing scrip shall be conspicuously labeled "scrip" and shall contain the information required by subsection (2) of Section 42 of this Act.

(3) The holder of a fractional share shall be entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip shall not be entitled to any of these rights unless the scrip provides for them.

(4) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including:

(a) That the scrip will become void if not exchanged for full shares before a specified date; and

(b) That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

SECTION 37. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A subscription for shares entered into before incorporation shall be irrevocable for six (6) months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2) The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors shall be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3) Shares issued pursuant to subscriptions entered into before incorporation shall be fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(4) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty (20) days after the corporation sends written demand for payment to the subscriber.

(5) A subscription agreement entered into after incorporation shall be a contract between the subscriber and the corporation subject to Section 38 of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors may authorize shares to be issued for consideration consisting only of an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of consideration for the issuance of shares at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of shares shall be void.

(3) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board of directors authorized the issuance of shares in accordance with this section, the shares issued therefor shall be considered fully paid and nonassessable.

(5) The consideration received for the issuance of shares having a par value, to the extent in excess of the par value of such shares, shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in Section 40(1) of this Act. The consideration received for the issuance of shares without par value shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in Section 40(1) of this Act. The amount of capital surplus of a corporation immediately prior to the effective date of this Act shall also be deemed to be consideration paid for the issuance of shares, from time to time, as a share dividend within the meaning of this subsection.

(6) To the extent consolidated net income of the corporation or consideration theretofore received by the corporation for the issuance of shares is relied upon for the issuance of a share dividend, as provided in Section 40(1) of this Act, the board of directors shall designate some or all of such consolidated net income or existing consideration as the consideration paid for the issuance of such shares as a share dividend, and such designated amount shall thereafter not be included in the amount available under Section 40(1) of this Act as consideration for the issuance of shares as share dividends.

SECTION 39. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A purchaser from a corporation of its own shares shall not be liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(2) Unless otherwise provided in the articles of incorporation, a shareholder of a corporation shall not be personally liable for the acts or debts of the corporation except that he may become personally liable by reason of his own acts or conduct.

SECTION 40. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata to the corporation's shareholders or to the shareholders of one (1) or more classes or series to the extent:

(a) The aggregate consideration received by the corporation for the issuance of all shares of such class or series then outstanding includes consideration for the issuance of such shares pro rata, as provided in Section 38(5) of this Act; and/or

(b) The consolidated net income of the corporation, measured either for the current fiscal year or for all prior fiscal years, less the amount of distributions in the form of dividends theretofore paid to share holders, is not less than the consideration determined by the board of directors for the issuance of such shares pro rate.

An issuance of shares under this subsection shall be considered a share dividend.

(2) Shares of one (1) class or series may not be issued as a share dividend in respect of shares of another class or series unless:

(a) The articles of incorporation so authorize;

(b) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(c) There are no outstanding shares of the class or series to be issued.

(3) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it shall be the date the board of directors authorizes the share dividend.

SECTION 41. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the terms and conditions upon which and the consideration for which the shares are to be issued.

SECTION 42. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Shares may but need not be represented by certificates. Unless this Act or another statute expressly provides otherwise, the rights and obligations of shareholders shall be identical whether or not their shares are represented by certificates.

(2) At a minimum each share certificate shall state on its face:

(a) The name of the issuing corporation and that it is organized under the law of this state;

(b) The name of the person to whom issued; and

(c) The number and class of shares and the designation of the series, if any, the certificate represents.

(3) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the board of directors to determine variations for future series) shall be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder

this information on request in writing and without charge.

(4) Each share certificate:

(a) Must be signed (either manually or in facsimile) by two (2) officers designated in the bylaws or by the board of directors; and

(b) May bear the corporate seal or its facsimile.

(5) If the person who signed (either manually or in facsimile) a share certificate no longer holds office when the certificate is issued, the certificate shall nevertheless be valid.

SECTION 43. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by subsections (2) and (3) of Section 42 of this Act and, if applicable, Section 44 of this Act.

SECTION 44. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and the holder or transferee has actual knowledge of the restriction or its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by subsection (2) of Section 43 of this Act. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

(3) A restriction on the transfer or registration of transfer of shares shall be authorized:

(a) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(b) To preserve exemptions under federal or state securities law; or

(c) For any other reasonable purpose.

(4) A restriction on the transfer or registration of transfer of shares may without limitation:

(a) Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

(b) Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire the restricted shares;

(c) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(d) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 45. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may pay or allow the expenses of selling or underwriting its shares or other securities, and of organizing or reorganizing the corporation, from the consideration received for shares without thereby rendering such shares or other securities not fully paid or assessable.

SECTION 46. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except:

(a) To the extent the articles of incorporation so provide; and

(b) To the extent provided in subsection (4) of this section.

(2) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights" (or words of similar import) means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation shall have a preemptive right granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(b) A shareholder may waive his preemptive right. A waiver evidenced by a writing shall be irrevocable even though it is not supported by consideration.

(c) There shall be no preemptive right with respect to:

1. Shares issued as compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

2. Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

3. Shares authorized in articles of incorporation that are issued within six (6) months from the effective date of incorporation; and

4. Shares sold otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one (1) year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one (1) year shall be subject to the shareholders' preemptive rights.

(3) For purposes of this section, "shares" include a security convertible into or carrying a right to subscribe for or acquire shares.

(4) Except to the extent limited or denied by this subsection, shareholders of a corporation that existed on the effective date of this Act whose articles of incorporation did not on the effective date of this Act contain a provision specifically addressing preemptive rights shall have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

(a) No preemptive right shall exist:

1. To acquire any shares issued to directors, officers or employes pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or when authorized by and consistent with a plan theretofore approved by such a vote of shareholders; or

2. To acquire any shares sold otherwise than for cash.

(b) Holders of shares of any class that is preferred or limited as to dividends or assets shall not be entitled to any preemptive right.

(c) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall not be entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of any class with general voting rights but without preferential rights to distributions or assets or carrying a right to subscribe to or acquire shares of any class with general voting rights but without preferential rights to distributions or assets.

(d) Holders of shares of any class with general voting rights shall have no preemptive rights to shares of a class which is identical as to rights except that the class has general voting rights.

(e) The preemptive right shall be only an opportunity to acquire shares or other securities under such terms and conditions as the board of directors may fix for the purpose of providing a fair and reasonable opportunity to exercise such right.

(f) This subsection shall not apply to any class of stock of any corporation after the corporation's articles of incorporation are amended to limit or deny the preemptive rights of any class of its stock.

SECTION 47. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may acquire its own shares and shares so acquired shall constitute authorized but unissued shares.

(2) If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares shall be reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

(3) Articles of amendment may be adopted by the board of directors without shareholder action, shall be delivered to the secretary of state for filing, and shall set forth:

(a) The name of the corporation;

(b) The reduction in the number of authorized shares, itemized by class and series; and

(c) The total number of authorized shares, itemized by class and series, remaining after reduction of the shares.

SECTION 48. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3) of this section.

(2) If the board of directors does not fix the record date for determining shareholders entitled to a distribution (other than one involving a purchase, redemption or other acquisition of the corporation's shares), it shall be the date the board of directors authorizes the distribution.

(3) No distribution shall be made if, after giving it effect:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b) The corporation's total assets would be less than the sum of its total liabilities plus (unless the articles of incorporation permit otherwise) the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board of directors may base a determination that a distribution is not prohibited under subsection (3) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(5) Except as provided in subsection (7) of this section, the effect of a distribution under subsection (3) of this section shall be measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of:

1. The date money or other property is transferred or debt incurred by the corporation; or

2. The date the shareholder ceases to be a shareholder with respect to the acquired shares;

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(c) In all other cases, as of:

1. The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or

2. The date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(6) A corporation's indebtedness to a shareholder incurred by a reason of a distribution made in accordance with this section shall be at parity with the corporation's indebtedness to its general creditors except to the extent subordinated by agreement.

(7) Indebtedness of a corporation, including indebtedness issued as a distribution, shall not be considered a liability for purposes of determinations under subsection (3) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest shall be treated as a distribution, the effect of which is measured on the date the payment is actually made.

SECTION 49. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws.

(2) Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(3) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws shall not affect the validity of any corporate action.

SECTION 50. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) If the holders of at least thirty-three and one-third percent (33 1/3%) (or such higher or lower percentage as is contained in the articles of incorporation) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(2) If not otherwise fixed under Section 51 or 55 of this Act, the record date for determining shareholders entitled to demand a special meeting shall be the date the first shareholder signs the demand.

(3) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(4) Only business within the purpose or purposes described in the meeting notice required by subsection (3) of Section 53 of this Act may be conducted at a special shareholders' meeting.

SECTION 51. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The circuit court for the county where a corporation's principal office (or, if none in this state, its registered office) is located may summarily order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or

(b) On application of a shareholder who signed a demand for a special meeting valid under Section 50 of this Act, if:

1. Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to the corporation's secretary; or

2. The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

SECTION 52. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in the articles of incorporation, action required or permitted by this Act to be taken at a shareholders' meeting may be taken without a meeting and without prior notice except as provided in subsection (7) of this section, if the action is taken by all the shareholders entitled to vote on the action.

(2) If the articles of incorporation so provide, any action except the election of directors pursuant to Section 64 of this Act required or permitted by this Act to be taken at a shareholders' meeting may be taken without a meeting and without prior notice except as provided in subsection (7) of this section if the action is taken by shareholders entitled to vote on the action representing not less than eighty percent (80%) (or such higher percentage required by this Act or the articles of incorporation) of the votes entitled to be cast.

(3) The action taken under this section shall be evidenced by one (1) or more written consents describing

the action taken, signed by the shareholders taking the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(4) Action taken under this section shall be effective when consents representing the votes necessary to take the action under this section are delivered to the corporation, or upon delivery of the consents representing the necessary votes, as of a different date if specified in the consent.

(5) Any shareholder giving a consent may revoke the consent by a writing received by the corporation prior to the time that consents representing the votes required to take the action under this section have been delivered to the corporation but may not do so thereafter.

(6) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

(7) Prompt notice of the taking of any action by shareholders without a meeting under this section by less than unanimous written consent shall be given to those shareholders entitled to vote on the action who have not consented in writing.

(8) If this Act requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by consent of the voting shareholders under this section, the corporation shall give its nonvoting shareholders and voting shareholders whose consent is not solicited, written notice of the proposed action at least ten (10) days before the action is taken. The notice shall contain or be accompanied by the same material that, under this Act, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

SECTION 53. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than ten (10) nor more than sixty (60) days before the meeting date. Unless this Act or the articles of incorporation require otherwise, the corporation shall be required to give notice only to shareholders entitled to vote at the meeting.

(2) Unless this Act or the articles of incorporation require otherwise, notice of an annual meeting shall not be required to include a description of the purpose or purposes for which the meeting is called.

(3) Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.

(4) If not otherwise fixed under Section 51 or 55 of this Act, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting shall be the day before the first notice is delivered to shareholders.

(5) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice shall not be required to be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under Section 55 of this Act, however, notice of the adjourned meeting shall be given under this section to persons who are shareholders as of the new record date.

SECTION 54. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder may waive any notice required by this Act, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver shall be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) A shareholder's attendance at a meeting shall:

(a) Waive objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(b) Waive objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

SECTION 55. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The bylaws may fix or provide the manner of fixing the record date for one (1) or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

(2) A record date fixed under this section shall not be more than seventy (70) days before the meeting or action requiring a determination of shareholders.

(3) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting shall be effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

SECTION 56. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After fixing a record date for a meeting, a corporation shall prepare a list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list shall be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(2) The shareholders' list shall be available for inspection by any shareholder, beginning five (5) business days before the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, his agent, or attorney shall be entitled on written demand to inspect and, subject to the requirements of subsection (3) of Section 168 of this Act, to copy the list, during regular business hours and at his expense, during the period it is available for inspection.

(3) The corporation shall make the shareholders' list available at the meeting, and any shareholder, his agent, or attorney shall be entitled to inspect the list at any time during the meeting or any adjournment.

(4) Refusal or failure to prepare or make available the shareholders' list shall not affect the validity of action taken at the meeting.

SECTION 57. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2) and (4) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.

(2) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(3) Subsection (2) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(4) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

SECTION 58. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder may vote his shares in person or by proxy.

(2) A shareholder may appoint a proxy to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. For purposes of this section and Section 60 of this Act, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy shall be deemed to be a sufficient, signed appointment form.

(3) An appointment of a proxy shall be effective when the appointment form is received by the secretary or other officer or agent authorized to tabulate votes. An appointment shall be valid for eleven (11) months unless a longer period is expressly provided in the appointment form.

(4) An appointment of a proxy shall be revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation who extended it credit under terms requiring the appointment;

(d) An employe of the corporation whose employment contract requires the appointment; or

(e) A party to a voting agreement created under Section 66 of this Act.

(5) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section shall be revocable when the interest with which it is coupled is extinguished. The revocation of an appointment under this subsection shall not be effective until the secretary of the corporation has received written notice of the revocation.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to Section 60 of this Act and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation shall be entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

SECTION 59. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(2) The procedure may set forth:

(a) The types of nominees to which it applies;

(b) The rights or privileges that the corporation recognizes in a beneficial owner;

(c) The manner in which the procedure is selected by the nominee;

(d) The information that must be provided when the procedure is selected;

(e) The period for which selection of the procedure is effective; and

(f) Other aspects of the rights and duties created.

SECTION 60. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith shall be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder. For purposes of this section, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy may be accepted by the corporation if acting in good faith, as a sufficient, signed appointment form.

(2) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith shall nevertheless be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(e) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation shall be entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(4) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section shall be valid unless a court of competent jurisdiction determines otherwise.

(6) Shares standing in the name of another corporation, domestic or foreign, may be voted by either the president of such corporation or by proxy appointed by him unless the board of directors of such other corporation authorizes another person to vote such shares.

(7) Shares held by an administrator, executor, guardian, or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(8) Where shares are held jointly by three (3) or more fiduciaries acting under an instrument becoming

effective after June 30, 1946, the will of the majority of such fiduciaries shall control the manner of voting or the giving of a proxy unless the instrument or order appointing the fiduciaries otherwise directs. Where, in any case, fiduciaries are equally divided upon the manner of voting shares jointly held by them, any court of competent jurisdiction may, upon petition filed by any of the fiduciaries, or by any beneficiary, appoint an additional person to act with the fiduciaries in determining the manner in which the shares shall be voted upon the particular questions as to which the fiduciaries are divided.

(9) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(10) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the share so transferred.

SECTION 61. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this Act provide otherwise, a majority of the votes entitled to be cast on the matter by the voting group shall constitute a quorum of that voting group for action on that matter.

(2) Once a share is represented for any purpose at a meeting, it shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(3) If a quorum exists, action on a matter (other than the election of directors) by a voting group shall be approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this Act require a greater number of affirmative votes.

(4) An amendment of articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (1) or (3) of this section shall be governed by Section 63 of this Act.

(5) The election of directors shall be governed by Section 64 of this Act.

SECTION 62. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the articles of incorporation or this Act provide for voting by a single voting group on a matter, action on that matter shall be taken when voted upon by that voting group as provided in Section 61 of this Act.

(2) If the articles of incorporation or this Act provide for voting by two (2) or more voting groups on a matter, action on that matter shall be taken only when voted upon by each of those voting groups counted separately as provided in Section 61 of this Act. Action may be taken by one (1) voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

SECTION 63. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is provided for by this Act.

(2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect.

SECTION 64. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

At each election for directors each shareholder entitled to vote at such election shall have the right to cast, *in person or by proxy, as many votes in the aggregate as he shall be entitled to vote under the corporation's articles of incorporation, multiplied by the number of directors to be elected at such election; and each shareholder may cast the whole number of votes for one (1) candidate, or distribute such votes among two (2) or more candidates. Such directors shall not be elected in any other manner.*

SECTION 65. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust (which may include anything consistent with its purpose) and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(2) A voting trust shall become effective on the date the first shares subject to the trust are registered in the trustee's name. A voting trust shall be valid for not more than ten (10) years after its effective date unless extended under subsection (3) of this section.

(3) All or some of the parties to a voting trust may extend it for additional terms of not more than ten (10) years each by signing an extension. An extension shall be valid for ten (10) years from the date the first shareholder signs the extension agreement. The voting trustee shall deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement shall bind only those parties signing it.

SECTION 66. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section shall not be subject to the provisions of Section 65 of this Act.

(2) A voting agreement created under this section shall be specifically enforceable.

SECTION 67. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.

(2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.

(4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.

SECTION 68. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section, each corporation shall have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation.

(3) A corporation having fifty (50) or fewer shareholders may dispense with or limit the authority of a board of directors by describing in its articles of incorporation who will perform some or all of the duties of a board of directors.

SECTION 69. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The articles of incorporation or bylaws may prescribe qualifications for directors. A director shall not be required to be a resident of this state or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

SECTION 70. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A board of directors shall consist of one (1) or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) If a board of directors has power to fix or change the number of directors, the board may increase or decrease by thirty percent (30%) or less the number of directors last approved by the shareholders, but only the shareholders may increase or decrease by more than thirty percent (30%) the number of directors last approved by the shareholders.

(3) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed to a variable-range size board or vice versa.

(4) Directors shall be elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under Section 73 of this Act.

SECTION 71. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one (1) or more authorized classes of shares. A class (or classes) of shares entitled to elect one (1) or more directors is a separate voting group for purposes of the election of directors.

SECTION 72. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The terms of the initial directors of a corporation shall expire at the first shareholders' meeting at which directors are elected.

(2) The terms of all other directors shall expire at the next annual shareholders' meeting following their election unless their terms are staggered under Section 73 of this Act.

(3) A decrease in the number of directors shall not shorten an incumbent director's term.

(4) The term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.

(5) Despite the expiration of a director's term, he shall continue to serve until his successor is elected and qualifies or until there is a decrease in the number of directors.

SECTION 73. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If there are nine (9) or more directors, the articles of incorporation may provide for staggering their terms by dividing the total number of directors into (2) or three (3) groups, with each group containing one-half (1/2) or one-third (1/3) of the total, as near as may be. In that event, the terms of directors in the first group shall expire at the first annual shareholders' meeting after their election, the terms of the second group shall expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, shall expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two (2) years or three (3) years, as the case may be, to succeed those whose terms expire.

SECTION 74. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director may resign at any time by delivering written notice to the board of directors, its chairman, or to the corporation.

(2) A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date.

SECTION 75. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The shareholders may remove one (1) or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him.

(3) A director may not be removed if the number of votes sufficient to elect him under cumulative voting is voted against his removal.

(4) A director shall be removed by the shareholders only at a meeting called for the purpose of removing him and the meeting notice shall state that the purpose, or one (1) of the purposes, of the meeting is removal of the director.

SECTION 76. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(a) The shareholders may fill the vacancy;

(b) The board of directors may fill the vacancy; or

(c) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group shall be entitled to vote to fill the vacancy if it is filled by the shareholders.

(3) A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date under subsection (2) of Section 74 of this Act or otherwise) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

SECTION 77. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

SECTION 78. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The board of directors may hold regular or special meetings in or out of this state.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during this meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

SECTION 79. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Act to be taken at a board of director's meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one (1) or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

(2) Action taken under this section shall be effective when the last director signs the consent, unless the consent specifies a different effective date.

(3) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

SECTION 80. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two (2) days' notice of the date, time, and place of the meeting. Unless otherwise provided by the articles of incorporation or bylaws, the notice shall not be required to describe the purpose of the special meeting.

SECTION 81. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director may waive any notice required by this Act, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as provided by subsection (2) of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(2) A director's attendance at or participation in a meeting shall waive any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

SECTION 82. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws require a greater number, a quorum of a board of directors shall consist of:

(a) A majority of the fixed number of directors if the corporation has a fixed board size; or

(b) A majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

(2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third (1/3) of the fixed or prescribed number of directors determined under subsection (1) of this section.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall be the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken shall be deemed to have assented to the action taken unless:

(a) He objects at the beginning of the meeting (or promptly upon his arrival) to holding it or transacting business at the meeting;

(b) His dissent or abstention from the action taken is entered in the minutes of the meeting; or

(c) He delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention shall not be available to a director who votes in favor of the action taken.

SECTION 83. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one (1) or more committees and appoint members of the board of directors to serve on them. Each committee shall have two (2) or more members, who serve at the pleasure of the board of directors.

(2) The creation of a committee and appointment of members to it shall be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles of incorporation or bylaws to take action under Section 82 of this Act.

(3) Sections 78 to 82 of this Act, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, shall apply to committees and their members as well.

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors under Section 68 of this Act.

(5) A committee shall not, however:

(a) Authorize distributions;

(b) Approve or propose to shareholders action that this Act requires be approved by shareholders;

(c) Fill vacancies on the board of directors or on any of its committees;

(d) Amend articles of incorporation pursuant to Section 104 of this Act;

(e) Adopt, amend, or repeal bylaws;

(f) Approve a plan of merger not requiring shareholder approval;

(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors; or

(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee (or a senior executive officer of the corporation) to do so within limits specifically prescribed by the board of directors.

(6) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in Section 85 of this Act.

SECTION 84. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If any provision of this Act or its application to any person or circumstances is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 85. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) A director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with subsection (2)(d) of Section 16 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation and its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 86. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction shall be a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(b) The material facts of the transaction and the directors interest were disclosed or known to the share holders entitled to vote and they authorized, approved, or ratified the transaction; or

(c) The transaction was fair to the corporation.

(2) For purposes of this section, a director of the corporation shall have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(3) For purposes of subsection (1)(a) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum shall be present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction shall not affect the validity of any action taken under subsection (1)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(4) For purposes of subsection (1)(b) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (2)(a) of this section, may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (1)(b) of this section. The vote of those shares, however, shall be counted in determining whether the transaction is approved under other sections of this Act. A majority of the shares that are entitled to be counted in a vote on the transaction under this subsection shall constitute a quorum for the purpose of taking action under this section.

SECTION 87. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided by subsection (3) of this section, a corporation may not lend money to or guarantee the obligation of a director of the corporation unless:

(a) The particular loan or guarantee is approved by a majority of the votes represented by the outstanding voting shares of all classes, voting as a single voting group, except the votes of shares owned by or voted under the control of the benefited director; or

(b) The corporation's board of directors determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees.

(2) The fact that a loan or guarantee is made in violation of this section shall not affect the borrower's liability on the loan or the corporation's liability on the guarantee.

(3) This section shall not apply to loans and guarantees authorized by statute regulating any special class of corporations.

SECTION 88. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director who votes for or who assents to a distribution made in violation of Section 48 of this Act or the articles of incorporation shall be personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating Section 48 of this Act or the articles of incorporation if it is established that he did not perform his duties in compliance with Section 85 of this Act. In any proceeding commenced under this section, a director shall have all of the defenses ordinarily available to a director.

(2) A director held liable under subsection (1) of this section for an unlawful distribution shall be entitled to contribution:

(a) From every other director who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) From each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of Section 48 of this Act or the articles of incorporation.

(3) A proceeding under this section shall be barred unless it is commenced within two (2) years after the date on which the effect of the distribution was measured under subsection (5) or (7) of Section 48 of this Act.

SECTION 89. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(2) A duly appointed officer may appoint one (1) or more officers or assistant officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall delegate to one (1) of the officers responsibility for preparing minutes of the directors' and shareholders' meetings and for authenticating records of the corporation.

(4) The same individual may simultaneously hold more than one (1) office in a corporation.

SECTION 90. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each officer shall have the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

SECTION 91. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer with discretionary authority shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) An officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties an officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the officer honestly believes to be reliable

and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's professional or expert competence.

(4) An officer shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation or its shareholders.

(6) A person bringing an action or monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when his section becomes effective.

SECTION 92. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer may resign at any time by delivering notice to the corporation. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor shall not take office until the effective date.

(2) A board of directors may remove any officer at any time with or without cause.

SECTION 93. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The appointment of an officer shall not itself create contract rights.

(2) An officer's removal shall not affect the officer's contract rights, if any, with the corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

SECTION 94. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

As used in Sections 94 to 102 of this Act:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or an individual, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employe, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employe benefit plan, or other enterprise. A director shall be considered to be serving an employe benefit plan at the corporations request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include counsel fees.

(4) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employe benefit plan), or reasonable expenses incurred with respect to a proceeding.

(5) "Official capacity" means:

(a) When used with respect to a director the office of director in a corporation; and

(b) When used with respect to an individual other than a director, as contemplated in Section 100 of this Act, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employe or agent on behalf of the corporation. "Official capacity" shall not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employe benefit plan, or other enterprise.

(6) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

SECTION 95. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (4) of this section, a corporation may indemnify an individual made a party to a proceeding because he is or was a director against liability incurred in the proceeding if:

(a) He conducted himself in good faith; and

(b) He reasonably believed:

1. In the case of conduct in his official capacity with the corporation, that his conduct was in its best interests; and

2. In all other cases, that his conduct was at least not opposed to its best interests; and

(c) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

(2) A director's conduct with respect to an employe benefit plan for a purpose he reasonably believed to be in the interests of the participants in and beneficiaries of the plan shall be conduct that satisfies the requirement of subsection (1)(b)2. of this section.

(3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not be, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) In connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation shall be limited to reasonable expenses incurred in connection with the proceeding.

SECTION 96. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly *successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he is or was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding.*

SECTION 97. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director furnishes the corporation a written affirmation of his good faith belief that he has met the standard of conduct described in Section 95 of this Act;

(b) The director furnishes the corporation a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct; and

(c) A determination is made that the facts then known to those making the determination would not preclude indemnification under Sections 94 to 102 of this Act.

(2) The undertaking required by subsection (1)(b) of this section shall be an unlimited general obligation of the director but shall not be required to be secured and may be accepted without reference to financial ability to make repayment.

(3) Determinations and authorizations of payments under this section shall be made in the manner specified in Section 99 of this Act.

SECTION 98. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless a corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification if it determines:

(1) The director is entitled to mandatory indemnification under Section 96 of this Act, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or

(2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he met the standard of conduct set forth in Section 95 of this Act or was adjudged liable as described in subsection (4) of Section 95 of this Act, but if he was adjudged so liable his indemnification shall be limited to reasonable expenses incurred.

SECTION 99. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall not indemnify a director under Section 95 of this Act unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in Section 95 of this Act.

(2) The determination shall be made:

(a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) If a quorum cannot be obtained under subsection (2)(a) of this section, by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two (2) or more directors not at the time parties to the proceeding;

(c) By special legal counsel:

1. Selected by the board of directors or its committee in the manner prescribed in subsection (2)(a) and (b) of this section; or

2. If a quorum of the board of directors cannot be obtained under subsection (2)(a) of this section and a committee cannot be designated under subsection (2)(b) of this section, selected by majority vote of the full board of directors (in which selection directors who are parties may participate); or

(d) By the shareholders, but shares owned by or voted under the control of directors who are at the time parties to the proceeding shall not be voted on the determination.

(3) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (2)(c) of this section to select counsel.

SECTION 100. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless a corporation's articles of incorporation provide otherwise:

(1) An officer of the corporation who is not a director shall be entitled to mandatory indemnification under Section 96 of this Act, and is entitled to apply for court-ordered indemnification under Section 98 of this Act, in each case to the same extent as a director;

(2) The corporation may indemnify and advance expenses under Sections 94 to 102 of this Act to an officer, employe, or agent of the corporation who is not a director to the same extent as to a director; and

(3) A corporation may also indemnify and advance expenses to an officer, employe, or agent who is not a director to the extent, consistent with public policy, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

SECTION 101. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employe, or agent of the corporation, or who, while a director, officer, employe or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employe, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employe benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employe, or agent, whether or not the corporation would have power to indemnify him against the same liability under Section 95 or 96 of this Act.

SECTION 102. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The indemnification and advancement of expenses provided by, or granted pursuant to, Sections 94 to 102 of this Act shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

(2) Sections 94 to 102 of this Act shall not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with his appearance as a witness at a proceeding at a time when he has not been made a named defendant or responded to the proceeding.

SECTION 103. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation shall be determined as of the effective date of the amendment.

(2) A shareholder of the corporation shall not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

SECTION 104. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state;

(4) To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding;

(5) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name; or

(6) To make any other change expressly permitted by this Act to be made without shareholder action.

SECTION 105. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may propose one (1) or more amendments to the articles of incorporation for submission to the shareholders.

(2) For the amendment to be adopted:

(a) The board of directors shall recommend the amendment to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the amendment; and

(b) The shareholders entitled to vote on the amendment shall approve the amendment as provided in subsection (5) of this section.

(3) The board of directors may condition its submission of the proposed amendment on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholder's meeting in accordance with Section 53 of this Act. The notice of meeting shall also state that the purpose, or one (1) of this purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(5) Unless this Act, the articles of incorporation, or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or a vote by voting groups, the amendment to be adopted shall be approved by:

(a) A majority of the votes entitled to be cast on the amendment by any voting group with respect to which the amendment would create dissenters' rights; and

(b) The votes required by Sections 61 and 62 of this Act by every other voting group entitled to vote on the amendment.

SECTION 106. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The holders of the outstanding shares of a class shall be entitled to vote as a separate voting group (if shareholder voting is otherwise required by this Act) on a proposed amendment if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of the class;

(b) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(c) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(d) Change the designation, rights, preferences, or limitations of all or part of the shares of the class;

(e) Change the shares of all or part of the class into a different number of shares of the same class;

(f) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(g) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(h) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(i) Cancel or otherwise affect rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one (1) or more of the ways described in subsection (1) of this section, the shares of that series shall be entitled to vote as a separate voting group on the proposed amendment.

(3) If a proposed amendment that entitles two (2) or more series of shares to vote as separate voting groups under this section would affect those two (2) or more series in the same or a substantially similar way, the shares of all the series so affected shall vote together as a single voting group on the proposed amendment.

(4) A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

SECTION 107. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If a corporation has not yet issued shares, its incorporators or board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation.

SECTION 108. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation amending its articles of incorporation shall deliver to the secretary of state for filing articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment adopted;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;

(4) The date of each amendment's adoption;

(5) If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(6) If an amendment was approved by the shareholders:

(a) The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting; and

(b) Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.

SECTION 109. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder action.

(2) The restatement may include one (1) or more amendments to the articles. If the restatement includes an amendment requiring shareholder approval, it shall be adopted as provided in Section 105 of this Act.

(3) If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.

(4) A corporation restating its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(a) Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement; or

(b) If the restatement contains an amendment to the articles requiring shareholder approval, the information required by Section 108 of this Act.

(5) Restated articles of incorporation supersede the original articles of incorporation and all amendments to them when the restated articles of incorporation become effective pursuant to Section 4 of this Act.

(6) The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (4) of this section.

SECTION 110. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of incorporation after amendment contain only provisions required or permitted by Section 16 of this Act.

(2) The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment approved by the court;

(c) The date of the court's order or decree approving the articles of amendment;

(d) The title of the reorganization proceeding in which the order or decree was entered; and

(e) A statement that the court had jurisdiction of the proceeding under federal statute.

(3) Shareholders of a corporation undergoing reorganization shall not have dissenters' rights except as and to the extent provided in the reorganization plan.

(4) This section shall not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

SECTION 111. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

An amendment to articles of incorporation shall not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

SECTION 112. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

(a) The articles of incorporation or this Act reserve this power exclusively to the shareholders in whole or part; or

(b) The shareholders in amending or repealing a particular bylaw provide expressly that the board of directors may not amend or repeal that bylaw.

(2) A corporation's shareholders may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.

SECTION 113. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A bylaw that fixes a greater quorum or voting requirement for the board of directors may be amended or repealed:

(a) If originally adopted by the shareholders, only by the shareholders; or

(b) If originally adopted by the board of directors, either by the shareholders or by the board of directors.

(2) A bylaw adopted or amended by the shareholders that fixes a greater quorum or voting requirement for the board of directors may provide that it may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3) Action by the board of directors under subsection (1)(b) of this section to adopt or amend a bylaw that changes the quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effective or proposed to be adopted, whichever is greater.

SECTION 114. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders (if required by Section 116 of this Act) approve a plan of merger.

(2) The plan of merger shall set forth:

(a) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of the surviving corporation; and

(b) Other provisions relating to the merger.

SECTION 115. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may acquire all of the outstanding shares of one (1) or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by Section 116 of this Act) approve the exchange.

(2) The plan of exchange shall set forth:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation;

(b) The terms and conditions of the exchange; and

(c) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

(3) The plan of exchange may set forth other provisions relating to the exchange.

(4) This section shall not limit the power of a corporation to acquire all or part of the shares of one (1) or more classes or series of another corporation through a voluntary exchange or otherwise.

SECTION 116. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (7) of this section) or share exchange for approval by its shareholders.

(2) For a plan of merger or share exchange to be approved:

(a) The board of directors shall recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(b) The shareholders entitled to vote shall approve the plan.

(3) The board of directors may condition its submission of the proposed merger or share exchange on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of

the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(5) Unless this Act, the articles of incorporation, or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or vote by voting groups, the plan of merger or share exchange to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be case on the plan by that voting group.

(6) Separate voting by voting groups shall be required:

(a) On a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under Section 106 of this Act; and

(b) On a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(7) Action by the shareholders of the surviving corporation on a plan of merger shall not be required if:

(a) The articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in Section 104 of this Act) from its articles before the merger;

(b) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(c) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger) will not exceed by more than twenty percent (20%) the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(d) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of participating shares outstanding immediately before the merger.

(8) As used in subsection (7) of this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(9) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

SECTION 117. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A parent corporation owning at least ninety percent (90%) of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.

(2) The board of directors of the parent shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or part.

(3) The parent shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

(4) The parent shall not deliver articles of merger to the secretary of state for filing until at least thirty (30) days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.

(5) Articles of merger under this section shall not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in Section 104 of this Act).

SECTION 118. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing articles of merger or share exchange setting forth:

(a) The plan of merger or share exchange;

(b) If shareholder approval was not required, a statement to that effect; and

(c) If approval of the shareholders of one (1) or more corporations party to the merger or share exchange was required:

1. The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and

2. Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(2) A merger or share exchange shall take effect upon the effective date of the articles of merger or share exchange.

SECTION 119. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) When a merger takes effect:

(a) Every other corporation party to the merger shall merge into the surviving corporation and the separate existence of every corporation except the surviving corporation shall cease;

(b) The title to all real estate and other property owned by each corporation party to the merger shall be vested in the surviving corporation without reversion or impairment;

(c) The surviving corporation shall have all liabilities of each corporation party to the merger;

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;

(e) The articles of incorporation of the surviving corporation shall be amended to the extent provided in the plan of merger; and

(f) The shares of each corporation party to the merger that are to be converted into shares, obligations,

or other securities of the surviving or any other corporation or into cash or other property shall be converted, and the former holders of the shares shall be entitled only to the rights provided in the articles of merger or to their rights under Sections 123 to 136 of this Act.

(2) When a share exchange takes effect, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange or to their rights under Sections 123 to 136 of this Act.

SECTION 120. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more foreign corporations may merge or enter into a share exchange with one (1) or more domestic corporations if:

(a) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(b) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;

(c) The foreign corporation complies with Section 118 of this Act if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and

(d) Each domestic corporation complies with the applicable provisions of Sections 114 to 117 of this Act and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with Section 118 of this Act.

(2) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange shall be deemed:

(a) To appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under Sections 123 to 136 of this Act; and

(c) To have agreed, to the extent required by Section 200 of the Kentucky Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise, as if the transaction has not taken place.

(3) This section shall not limit the power of a foreign corporation to acquire all or part of the shares of one (1) or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

SECTION 121. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

(a) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business;

(b) Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of its property whether or not in the usual and regular course of business; or

(c) Transfer any or all of its property to a corporation all the shares of which are owned by the corporation.

(2) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (1) of this section shall not be required.

SECTION 122. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property (with or without the good will), otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and its shareholders approve the proposed transaction.

(2) For a transaction to be authorized:

(a) The board of directors shall recommend the proposed transaction to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction; and

(b) The shareholders entitled to vote shall approve the transaction.

(3) The board of directors may condition its submission of the proposed transaction on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and contain or be accompanied by a description of the transaction.

(5) Unless the articles of incorporation or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or a vote by voting groups, the transaction to be authorized shall be approved by a majority of all the votes entitled to be cast on the transaction.

(6) After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned (subject to any contractual rights) without further shareholder action.

(7) A transaction that constitutes a distribution is governed by Section 48 of this Act and not by this section.

SECTION 123. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

As used in Sections 124 to 136 of this Act:

(1) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(2) "Dissenter" means a shareholder who is entitled to dissent from corporate action under Section 124 of this Act and who exercises that right when and in the manner required by Sections 126 to 134 of this Act.

(3) "Fair value," with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable. In any transaction subject to the requirements of KRS 271A.397 or exempted by KRS 271A.398(2), "fair value" shall be at least an amount required to be paid under KRS 271A.398(2) in order to be exempt from the requirements of KRS 271A.397.

(4) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(5) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(6) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

SECTION 124. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party:

1. If shareholder approval is required for the merger by Section 116 of this Act or the articles of incorporation and the shareholder is entitled to vote on the merger; or

2. If the corporation is a subsidiary that is merged with its parent under Section 117 of this Act;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled vote on the plan;

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;

(d) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;

2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

4. Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under Section 36 of this Act;

(e) Any transaction subject to the requirements of KRS 271A.397 or exempted by KRS 271A.398(2); or

(f) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

SECTION 125. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in his name only if he shall dissent with respect to all shares beneficially owned by any one (1) person and notify the corporation in writing of the name and address of each person on whose behalf he asserts dissenters' rights. The rights of a partial dissenter under this subsection shall be determined as if the shares as to which he dissents and his other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on his behalf only if:

(a) He submits to the corporation the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights; and

(b) He does so with respect to all shares of which he is the beneficial shareholder or over which he has power to direct the vote.

SECTION 126. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this chapter and the corporation shall undertake to provide a copy of this chapter to any shareholder entitled to vote at the shareholders' meeting upon request of that shareholder.

(2) If corporate action creating dissenters' rights under Section 124 of this Act is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in Section 128 of this Act.

SECTION 127. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights:

(a) Shall deliver to the corporation before the vote is taken written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Shall not vote his shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) of this section shall not be entitled to payment for his shares under this chapter.

SECTION 128. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who satisfied the requirements of Section 127 of this Act.

(2) The dissenters' notice shall be sent no later than ten (10) days after the date the proposed corporate action was authorized by the shareholders, or, if no shareholder authorization was obtained, by the board of directors, and shall:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than thirty (30), nor more than sixty (60) days after the date the notice provided in subsection (1) of this section is delivered; and

(e) Be accompanied by a copy of Sections 123 to 136 of this Act.

SECTION 129. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder who is sent a dissenters' notice described in Section 128 of this Act shall demand payment, certify whether he acquired beneficial ownership of the shares before the date required to be set forth in the dissenters' notice pursuant to subsection (2)(c) of Section 128 of this Act,, and deposit his certificates in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits his share certificates under subsection (1) of this section shall retain all other rights of a shareholder until these rights are cancelled or modified by the taking of the proposed corporate action.

(3) A shareholder who does not demand payment or deposit his share certificates where required, each by the date set in the dissenters' notice, shall not be entitled to payment for his shares under Sections 123 to 136 of this Act.

SECTION 130. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The corporation may restrict the transfer of uncertificated shares from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under Section 132 of this Act.

(2) The person for whom dissenters' rights are asserted as to uncertificated shares shall retain all other rights of a shareholder until these rights are cancelled or modified by the taking of the proposed corporate action.

SECTION 131. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 133 of this Act, as soon as the proposed corporate action is taken, or upon receipt of a payment demand, the corporation shall pay each dissenter who complied with Section 129 of this Act the amount the corporation estimates to be the fair value of his shares, plus accrued interest.

(2) The payment shall be accompanied by:

(a) The corporation's balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any;

(b) A statement of the corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated; and

(d) A statement of the dissenter's right to demand payment under Section 134 of this Act.

SECTION 132. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporation does not take the proposed action within sixty (60) days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

(2) If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it shall send a new dissenters' notice under Section 128 of this Act and repeat the payment demand procedure.

SECTION 133. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may elect to withhold payment required by Section 131 of this Act from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenters' notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action.

(2) To the extent the corporation elects to withhold payment under subsection (1) of this section, after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under Section 134 of this Act.

SECTION 134. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissenter may notify the corporation in writing of his own estimate of the fair value of his shares and amount of interest due, and demand payment of his estimate (less any payment under Section 131 of this Act), or reject the corporation's offer under Section 133 of this Act and demand payment of the fair value of his shares and interest due, if:

(a) The dissenter believes that the amount paid under Section 131 of this Act or offered under Section 133 of this Act is less than the fair value of his shares or that the interest due is incorrectly calculated;

(b) The corporation fails to make payment under Section 131 of this Act within sixty (60) days after the date set for demanding payment; or

(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within sixty (60) days after the date set for demanding payment.

(2) A dissenter waives his right to demand payment under this section unless he shall notify the corporation of his demand in writing under subsection (1) of this section within thirty (30) days after the corporation made or offered payment for his shares.

SECTION 135. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If a demand for payment under Section 134 of this Act remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty (60) days period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The corporation shall commence the proceeding in the circuit court of the county where a corporation's principal office (or, if none in this state, its registered office) is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign corporation was located.

(3) The corporation shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) of this section shall be plenary and exclusive. The court may appoint one (1) or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The dissenters shall be entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding shall be entitled to judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the corporation elected to withhold payment under Section 133 of this Act.

SECTION 136. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The court in an appraisal proceeding commenced under Section 135 of this Act shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under Section 134 of this Act.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the corporation and in favor of any or all dissenters if the court finds the corporation did not substantially comply with the requirements of Sections 126 to 134 of this Act; or

(b) Against either the corporation or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by Sections 123 to 136 of this Act.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited.

SECTION 137. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth:

(1) The name of the corporation;

(2) The date of its incorporation;

(3) Either:

(a) That none of the corporation's shares has been issued; or

(b) That the corporation has not commenced business;

(4) That no debt of the corporation remains unpaid;

(5) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and

(6) That a majority of the incorporators or initial directors authorized the dissolution.

SECTION 138. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may propose dissolution for submission to the shareholders.

(2) For a proposal to dissolve to be adopted:

(a) The board of directors shall recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

(b) The shareholders entitled to vote shall approve the proposal to dissolve as provided in subsection (5)

of this section.

(3) The board of directors may condition its submission of the proposal for dissolution on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(5) Unless the articles of incorporation or the board of directors (acting pursuant to subsection (3)) of this section require a greater vote or a vote by voting groups, the proposal to dissolve to be adopted shall be approved by a majority of all votes entitled to be cast on that proposal.

SECTION 139. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing an original and three (3) exact or conformed copies of articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized;

(c) If dissolution was approved by the shareholders:

1. The number of votes entitled to be cast on the proposal to dissolve; and

2. Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval; and

(d) If voting by voting groups was required, the information required by subsection (1)(c) of this section shall be separately provided for each voting group entitled to vote separately on the plan to dissolve.

(2) The secretary of state shall immediately forward one (1) of the exact or conformed copies of the articles of dissolution to the commissioner of revenue.

(3) A corporation shall be dissolved upon the effective date of its articles of dissolution.

SECTION 140. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may revoke its dissolution within one hundred twenty (120) days of its effective date.

(2) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a) The name of the corporation;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was authorized;

(d) If the corporation's board of directors (or incorporators) revoked the dissolution, a statement to that effect;

(e) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f) If shareholder action was required to revoke the dissolution, the information required by subsection (1)(c) or (1)(d) of Section 139 of this Act.

(4) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(5) When the revocation of dissolution is effective, it shall relate back to and take effect as of the effective date of the dissolution and the corporation shall resume carrying on its business as if dissolution had never occurred.

SECTION 141. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation shall continue its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its shareholders;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its shareholders according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a corporation shall not:

(a) Transfer title to the corporation's property;

(b) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(c) Subject its directors or officers to standards of conduct different from those prescribed in Sections 68 to 102 of this Act;

(d) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection; resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;

(e) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the corporation; or

(h) Alter the obligations and responsibilities of the corporation as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns.

SECTION 142. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(2) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice shall:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty (120) days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved corporation shall be barred:

(a) If a claimant who was given written notice under subsection (2) of this section does not deliver the claim to the dissolved corporation by the deadline;

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days from the effective date of the rejection notice.

(4) For purposes of this section, "claim" shall not include a contingent liability, a claim based on an event occurring after the effective date of dissolution or any liability to the Commonwealth or the United States for any state or federal tax liability.

SECTION 143. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice shall:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office (or, if none in this state, its registered office) is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commended within two (2) years after the publication of the notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two (2) years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under Section 142 of this Act;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of his pro rata share of the claim or the corporate assets distributed to him in liquidation, whichever

is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to him.

SECTION 144. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 145 of this Act to administratively dissolve a corporation if:

(1) The corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The corporation does not notify the secretary of state within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(4) The corporation's period of duration stated in its articles of incorporation expires.

SECTION 145. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 144 of this Act for dissolving a corporation, he shall serve the corporation with written notice of his determination, by mailing such notice by first class mail to the corporation at its registered office.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days from the date on which the notice was mailed, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 141 of this Act and notify claimants under Sections 142 and 143 of this Act.

(4) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

SECTION 146. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation administratively dissolved under Section 145 of this Act may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of Section 26 of this Act; and

(d) Contain a certificate from the revenue cabinet reciting that all taxes owed by the corporation have been paid.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its business as if the administrative dissolution had never occurred.

SECTION 147. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation with a written notice that explains the reason or reasons for denial by mailing such notice by first class mail to the corporation at its registered office.

(2) The corporation may appeal the denial of reinstatement to the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is or was last located within thirty (30) days after service of the notice of denial is perfected. The corporation may appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

(3) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 148. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The circuit court may dissolve a corporation:

(1) In a proceeding by the attorney general if it is established that:

(a) The corporation obtained its articles of incorporation through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(c) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

SECTION 149. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Venue for a proceeding by the attorney general to dissolve a corporation shall lie in Franklin County.

Venue for a proceeding brought by any other party named in Section 148 of this Act shall lie in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

(2) It shall not be necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

SECTION 150. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A court in a judicial proceeding brought to dissolve a corporation may appoint one (1) or more receivers to wind up and liquidate, or one (1) or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian shall have exclusive jurisdiction over the corporation and all of its property wherever located.

(2) The court may appoint an individual or a domestic or foreign corporation (authorized to transact business in this state) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver:

1. May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

2. May sue and defend in his own name as receiver of the corporation in all courts of this state; and

(b) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and his counsel from the assets of the corporation or proceeds from the sale of assets.

SECTION 151. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in Section 148 of this Act exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with Section 141 of this Act and the notification of claimants in accordance with Sections 142 and 143 of this Act.

SECTION 152. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the state treasurer or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the state treasurer or other appropriate state official shall pay him or his representative that amount.

SECTION 153. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any proceeding;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employes or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; and

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive.

SECTION 154. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) A foreign corporation is liable for a civil penalty of two dollars ($2.00) for each day, but not to exceed

a total of five hundred dollars ($500) for each year, it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain a certificate of authority shall not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

SECTION 155. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 158 of this Act;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 156. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:

(a) Its corporate name;

(b) The period of its duration; or

(c) The state or country of its incorporation.

(2) The requirements of Section 155 for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 157. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this Act.

(2) A foreign corporation with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this Act shall be subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(3) This Act shall not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

SECTION 158. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporate name of a foreign corporation does not satisfy the requirements of Section 26 of this Act, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or

(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the corporate name (including a fictitious name) of a foreign corporation shall be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Sections 27 or 28 of this Act;

(c) The fictitious name of another foreign corporation authorized to transact business in this state;

(d) The corporate name of a not for profit corporation incorporated or authorized to transact business in this state; or

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015.

(3) A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation (incorporated or authorized to transact business in this state) that is not distinguishable upon his records from the name applied for. The secretary of state shall authorized use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(5) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of Section 26 of this Act, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of Section 26 of this Act and obtains an amended certificate of authority under Section 156 of this Act.

SECTION 159. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or not for profit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or foreign not for profit corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 160. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any foreign corporation for which he is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 161. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the secretary of state shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy to the foreign corporation at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the 31st day after the date on which the statement was filed.

SECTION 162. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation authorized to transact business in this state shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

(2) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed

to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this state under Section 163 of this Act; or

(c) Has had its certificate of authority revoked under Section 165 of this Act.

(3) Service is perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

SECTION 163. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state shall not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) That is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) A mailing address to which the secretary of state may mail a copy of any process served on him under subsection (2)(c) of this section; and

(e) A commitment to notify the secretary of state in the future of any change in its mailing address.

(3) After the withdrawal of the corporation is effective, service of process on the secretary of state under this section shall be service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (2) of this section.

SECTION 164. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 165 of this Act to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The foreign corporation is without a registered agent or registered office in this state for sixty (60)

days or more;

(3) The foreign corporation does not inform the secretary of state under Sections 160 and 161 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation or discontinuance;

(4) An incorporator, director, officer or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(5) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

SECTION 165. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 164 of this Act for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination by mailing the notice by first class mail to the corporation at its registered office.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after the mailing of the notice, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) The authority of a foreign corporation to transact business in this state shall cease on the date shown on the certificate revoking its certificate of authority.

(4) The secretary of state's revocation of a foreign corporation's certificate of authority shall be considered to appoint the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection shall be service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority shall not terminate the authority of the registered agent of the corporation.

SECTION 166. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after service of the certificate of revocation. The foreign corporation may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

(2) The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 167. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) Resolutions adopted by its board of directors creating one (1) or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(d) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three (3) years;

(e) All written communications to shareholders generally within the past three (3) years, including the financial statements furnished for the past three (3) years under Section 171 of this Act;

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its most recent annual report delivered to the secretary of state under Section 173 of this Act.

SECTION 168. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in subsection (5) of Section 167 of this Act if he gives the corporation written notice of his demand at least five (5) business days before the date on which he wishes to inspect and copy.

(2) A shareholder of a corporation shall be entitled to inspect and copy during regular business hours at a reasonable location specified by the corporation any of the following records of the corporation if the shareholder meets the requirements of subsection (3) of this section and gives the corporation written notice of his demand at least five (5) business days before the date on which he wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (1) of this section;

(b) Accounting records of the corporation; and

(c) The record of shareholders.

(3) A shareholder may inspect and copy the records described in subsection (b) of this section only if:

(a) His demand is made in good faith and for a proper purpose;

(b) He describes with reasonable particularity his purpose and the records he desires to inspect; and

(c) The records are directly connected with his purpose.

(4) The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

(5) This section shall not affect:

(a) The right of a shareholder to inspect records under Section 56 of this Act or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant;

(b) The power of a court, independently of this Act, to compel the production of corporate records for examination.

(6) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on his behalf.

SECTION 169. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder's agent or attorney shall have the same inspection and copying rights as the shareholder he represents.

(2) The right to copy records under Section 168 of this Act shall include, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(3) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production or reproduction of the records.

(4) The corporation may comply with a shareholder's demand to inspect the record of shareholders under subsection (2)(c) of Section 168 of this Act by providing him with a list of its shareholders that was compiled no earlier than the date of the shareholder's demand.

SECTION 170. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporation does not allow a shareholder who complies with subsection (1) of Section 168 of this Act to inspect and copy any records required by that subsection to be available for inspection, the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is located may summarily order inspection and copying of records demanded at the corporation's expense upon application of the shareholder.

(2) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with subsections (2) and (3) of Section 168 of this Act may apply to the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's costs (including reasonable counsel fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

SECTION 171. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Upon the written request of any shareholder or holder of voting trust certificates for shares of a corporation the corporation shall mail to such shareholder or holder of voting trust certificates its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

SECTION 172. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If a corporation indemnifies or advances expenses to a director under Sections 95 to 98 of this Act in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

SECTION 173. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its directors and principal officers;

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

(3) The first annual report shall be delivered to the secretary of state between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the secretary of state between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction.

Section 174. KRS 96A.020 is amended to read as follows:

(1) A transit authority may be created and established under the provisions of this chapter by proceedings or joint proceedings, and the name thereof shall be "Transit Authority of ......" If established by a city alone, or by a county alone, the name shall be completed by identification of the city or county. If created and established by joint proceedings, the name may be completed by inserting words generally identifying the area intended to be served, in such manner as the public bodies may determine by concert or agreement in their joint proceedings. Such transit authority shall constitute an agency and instrumentality for accomplishing essential governmental functions of the public body or public bodies creating and establishing the same, and shall be a political subdivision and a public body corporate, with power to contract and be contracted with, to sue and be sued, to establish, alter and enforce rules and regulations in furtherance of the purposes of its creation, to adopt, use and alter a corporate seal, and to have and exercise, generally, all of the powers of private corporations, as enumerated in *Section 23 of this Act* [~~KRS 271A.020~~], except to the extent the same may be inconsistent with this chapter. An authority shall be authorized to promote and develop mass transportation in its transit area and adjoining areas, including acquisition, operation and extension of existing mass transit systems; and an authority shall have and may exercise such powers as may be necessary or desirable to carry out such purposes. Subject to proof of public convenience and necessity as required by KRS Chapter 281 it may provide service outside its transit area and its adjoining areas.

(2) Subsequent to the creation and establishment of a transit authority, one (1) or more additional public bodies may be permitted to join therein, in such manner and subject to such conditions as may be prescribed by the board of the authority with the concurrence and approval of all public bodies which have theretofore participated in the establishment or previous enlargement of the authority.

Section 175. KRS 155.120 is amended to read as follows:

(1) Articles of incorporation may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative

vote of two-thirds (2/3) of the votes to which the stockholders are entitled and two-thirds (2/3) of the votes to which the members are entitled; Provided, That no amendment of the articles of incorporation which is inconsistent with the general purposes expressed herein or which authorizes any additional class of capital stock to be issued. shall be made.

(2) Within thirty (30) days after any meeting at which amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer and a majority of the directors, setting forth such amendment and the due adoption thereof, shall be submitted to the secretary of state, as provided in KRS *Chapter 271A* [~~271A.310~~].

Section 176. KRS 271A.398 is amended to read as follows:

(1) For purposes of subsection (2) of this section:

(a) "Announcement date" means the first general public announcement of the proposal or intention to make a proposal of the business combination or its first communication generally to shareholders of the corporation, whichever is earlier;

(b) "Determination date" means the date on which an interested shareholder first became an interested shareholder; and

(c) "Valuation date" means:

1. For a business combination voted upon by shareholders, the latter of the day prior to the date of the shareholders vote or the date twenty (20) days prior to the consummation of the business combination; and

2. For a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) The vote required by KRS 271A.397 does not apply to a business combination if each of the following conditions is met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of common stock in such business combination is at least equal to the highest of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder for any shares of common stock of the same class or series acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher; or

3. The price per share equal to the market value per share of common stock of the same class or series determined pursuant to subparagraph 2. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of common stock of the same class or series acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of common stock of the same class or series on the first day in such two-year period on which the interested shareholder acquired any shares of common stock.

(b) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of a particular class or series of stock:

1. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of such class of stock acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The highest preferential amount per share to which the holders of shares of such class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation; or

3. The market value per share of such class of stock on the announcement date or on the determination date, whichever is higher; or

4. The price per share equal to the market value per share of such class of stock determined pursuant to subparagraph 3. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of any class of voting stock acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of the same class of voting stock on the first day in such two-year period on which the interested shareholder acquired any shares of the same class of voting stock.

(c) In making any price calculation under this section, appropriate adjustments shall be made to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock. The consideration to be received by holders of any class or series of outstanding stock is to be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for such class of stock shall be either cash or the form used to acquire the largest number of shares of such class or series of stock previously acquired by it.

(d) 1. After the interested shareholder has become an interested shareholder and prior to the consummation of such business combination:

a. There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation;

b. There shall have been no reduction in the annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock; and an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock; and

c. The interested shareholder did not become the beneficial owner of any additional shares of stock of the corporation except as part of the transaction which resulted in such interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

2. The provisions of sub-subparagraphs a. and b. of subparagraph 1. do not apply if no interested shareholder or an affiliate or associate of the interested shareholder voted as a director of the corporation in a manner inconsistent with such sub-subparagraphs and the interested shareholder, within ten (10) days after any act or failure to act inconsistent with such sub-subparagraphs, notifies the board of directors of

the corporation in writing that the interested shareholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

(e) After the interested shareholder has become an interested shareholder, the interested shareholder may not have received the benefit, directly or indirectly, except proportionately as a shareholder, of any loans, advances, guarantees, pledges or other financial assistance provided by the corporation or any of its subsidiaries, whether in anticipation of or in connection with such business combination or otherwise.

(3) (a) Whether or not such business combinations are authorized or consummated in whole or in part after July 13, 1984 or after the interested shareholder became an interested shareholder, the requirements of KRS 271A.397 do not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates or associates, have been approved or exempted therefrom by resolution of the board of directors of the corporation:

1. Prior to two (2) months after July 13, 1984 or such earlier date as may be irrevocably established by resolution of the board of directors;

2. If involving transactions with a particular interested shareholder or its existing or future affiliates or associates, at any time prior to the time that the interested shareholder first became an interested shareholder; or

3. At any time if such business combination is approved by a majority of continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present.

(b) Unless by its terms a resolution adopted under this subsection is made irrevocable, it may be altered or repealed by the board of directors, but this shall not affect any business combinations that have been consummated, or are the subject of an existing agreement entered into, prior to the alteration or repeal.

(4) (a) Unless the articles of incorporation or bylaws of the corporation specifically provide otherwise, the requirements of KRS 271A.397 do not apply to business combinations of a corporation that, on July 13, 1984, had an existing interested shareholder, whether a business combination is with the existing shareholder or with any other person who becomes an interested shareholder, after July 13, 1984, or their present or future affiliates, unless, at any time after July 13, 1984, the board of directors of the corporation elects by resolution, adopted by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present, to be subject, in whole or in part, specifically, generally, or generally by types, as to specifically identified or unidentified interested shareholders, to the requirements of KRS 271A.397.

(b) The articles of incorporation or bylaws of the corporation may provide that if the board of directors adopts a resolution under paragraph (a) of this subsection, the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles of incorporation or the bylaws.

(c) An election under this subsection may be added to but may not be altered or repealed except by an amendment to the articles of incorporation adopted by a vote of shareholders meeting the requirements of subsection (5)(a)2. of this section.

(d) If a corporation elects under this subsection to be included within the provisions of KRS 271A.397 generally, without qualification or limitation, it shall file with the secretary of state articles of amendment including a copy of the resolution making the election and a statement describing the manner in which the resolution was adopted. The articles of amendment shall be executed in the manner required by *Section 108 of this Act* [~~KRS 271A.305~~].

(5) (a) Unless the articles of incorporation of the corporation provide otherwise, the requirements of KRS 271A.397 do not apply to any business combination of:

1. A corporation having fewer than five hundred (500) beneficial owners of its stock;

2. A corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation after the July 13, 1984, by a vote of at least eighty percent

(80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group and two-thirds of the votes entitled to be case by persons, if any, who are not interested shareholders of the corporation, voting together as a single voting group, expressly electing not to be governed by KRS 271A.397; or

3. An investment company registered under the federal Investment Company Act of 1940, as amended; a bank or a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended; a savings and loan holding company as defined in the federal Savings and Loan Holding Company Amendments of 1967, as amended; and a domestic insurer as defined under KRS 304.1-070.

(b) For purposes of subparagraph 1. of this subsection, all shareholders of a corporation who have executed an agreement to which the corporation is an executing party governing the purchase and sale of stock of the corporation or a voting trust agreement governing stock of the corporation shall be considered a single beneficial owner of the stock covered by the agreement.

Section 177. KRS 272.311 is amended to read as follows:

(1) A plan of merger or consolidation shall be adopted in the following manner:

(a) The board of each merging or consolidating association shall adopt a resolution approving the proposed plan, and directing that it be submitted to a vote at a meeting of the association members, which may be at either an annual or a special meeting. Written or printed notice of the meeting shall be given to each member of the association entitled to vote at such meeting. The notice shall state that the proposed plan of merger or consolidation will be considered and acted upon at the meeting, and a copy or a summary of the plan of merger or plan of consolidation shall be included in or inclosed with such notice. Each notice shall be mailed by first-class mail at such time that not less than ten (10) full days shall elapse between the date of mailing the notice and the date of the meeting, and shall be mailed to each member of the association at his last known address as it appears on the records of the association. The proposed plan shall be adopted by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting at such meeting;

(b) By the affirmative vote of not less than two-thirds (2/3) of its members, the board of directors of a parent association may approve on behalf of a wholly-owned subsidiary association a plan of merger or consolidation; and

(c) After the approval by the members, and at any time prior to the filing of articles of merger or articles of consolidation, the merger or consolidation may be abandoned pursuant to provisions set forth in the plan of merger or consolidation.

(2) Upon the approval of the members, articles of merger or articles of consolidation shall be executed, filed and recorded as provided in *Section 118 of this Act* [~~KRS 271A.370~~]. A copy of the articles of merger or articles of consolidation endorsed by the secretary of state, with the fact and time of recording in his office, shall be filed with the dean of the college of agriculture of the university of Kentucky and with the commissioner, department of agriculture.

(3) The articles of merger or the articles of consolidation shall set forth:

(a) The plan of merger or the plan of consolidation; and

(b) A statement setting forth the date of the meeting of the members of each association at which the plan was adopted; that the meeting was duly called and that a quorum was present; and that such plan received an affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members.

(4) The time when the merger or consolidation is effected is determined by the provisions of *Section 119 of this Act* [~~KRS 271A.380~~].

(5) When the merger or consolidation has been effected:

(a) The several associations, parties to the plan of merger or plan of consolidation, shall be a single association which, in the case of a merger, shall be the association designated as the surviving association, and, in the case of a consolidation, shall be the new association;

(b) The separate existence of all associations which are parties to the plan of merger or plan of consolidation, except the surviving association or new association, shall cease;

(c) The surviving association or new association shall have all the rights, privileges, franchises, immunities, and powers and shall be subject to all the duties and liabilities of an association organized under KRS 272.101 to 272.341;

(d) The surviving association or new association shall, to the extent consistent with its articles of incorporation as established or changed by the merger or consolidation, possess all the rights, privileges, immunities, and franchises, of both public and private nature, of each of the merging or consolidating associations; and all property, real, personal and mixed; and all debts due on any account; and all choses in action; and every other interest, of or belonging to or due to each of the associations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such surviving association or new association without further act or deed; and the title to any real estate, wheresoever situated, or any interest therein, shall vest in the surviving association or new association and shall not revert or be in any way impaired by reason of the merger or consolidation;

(e) The surviving association or new association shall be responsible for all the liabilities, contracts or other obligations and penalties of each of the associations so merged or consolidated; and any claim existing or action or proceeding, civil or criminal, pending by or against any of the associations may be prosecuted as if the merger or consolidation had not taken place, or the surviving association or new association may be substituted in its place; and any judgments rendered against any of the merged or consolidated associations may be enforced against the surviving association or new association. Neither the rights of creditors nor any liens upon the property of any merged or consolidated association shall be impaired by the merger or consolidation; and

(f) The articles of incorporation of a surviving association shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger. The articles of consolidation of a new association shall be deemed to be its articles of incorporation.

Section 178. KRS 272.335 is amended to read as follows:

A foreign association may be authorized to transact business in this state, upon compliance with the provisions of *Section 155 of this Act* [~~KRS 271A.525~~].

Section 179. KRS 273.171 is amended to read as follows:

Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal and alter it at pleasure, provided, however, that the presence or absence of a corporate seal on or from a writing shall neither add to nor detract from the legality thereof nor affect its validity in any manner or respect.

(4) [~~Subject to the provisions of KRS 273.383,~~] To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employes other than its officers and directors and otherwise assist its employes,

officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by KRS 273.161 to 273.390 in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, who may be directors or members, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or bylaws, or resolution adopted after notice to the members entitled to vote.

(15) To pay pensions and establish pension plans or pension trusts for any or all of its directors, officers and employes.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Section 180. KRS 273.363 is amended to read as follows:

The provisions of *Sections 162 and 163 of this Act* [~~KRS 271A.565 and 271A.585~~] shall apply to foreign corporations.

Section 181. KRS 274.015 is amended to read as follows:

(1) One or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the secretary of state. Such articles of incorporation shall meet the requirements of KRS Chapter 271A, and in addition to the information required by *Section 16 of this Act* [~~KRS 271A.270~~], such articles shall contain

the following:

(a) The designation of the profession or professions to be practiced through the professional service corporation.

(b) The names and residence addresses of all the original shareholders of the professional service corporation.

(c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.

(2) Any professional service corporation formed under the provisions of this chapter shall, except as this chapter may otherwise provide, have the same powers, authority, duties and liability as corporations formed under KRS Chapter 271A.

Section 182. KRS 287.103 is amended to read as follows:

(1) It is hereby declared to be the policy of the Commonwealth of Kentucky that the investment of funds, by a bank chartered under the laws of Kentucky or a national banking association having its principal office in Kentucky, in real and personal property as now or hereafter provided by this chapter be recognized as a normal, proper, necessary, and integral part of the legitimate business of such state or national banks.

(2) Upon approval of the commissioner in the case of a state bank, or the proper federal supervisory authority in the case of a national bank, the institution may invest its funds in real or personal property and/or improvements on such real property when all or a portion of the improvements are for use as its home office or for branch offices so long as the said real estate is used for carrying on its legitimate business as permitted by section 192 of the Constitution of the state of Kentucky.

(3) All property owned and held by a state or national bank under this section shall be deemed to be property that is proper and necessary for carrying out its legitimate business within the meaning of KRS *Chapter 271A* [~~271A.705~~] or any [~~other~~] section of the Kentucky Revised Statutes relating to escheat.

Section 183. KRS 290.185 is amended to read as follows:

(1) A credit union has a special obligation of confidentiality to its members; therefore, *any contrary* [~~the~~] provisions of KRS *Chapter 271A notwithstanding,* [~~271A.260 shall be limited to the extent that~~] a credit union shall be obligated to provide a shareholder only names and addresses of its member shareholders.

(2) No officer or director of a credit union or employe of the department shall release any information contained in the report of examination, except so far as necessary in the performance of his official duties as provided by law.

(3) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(4) Every official report concerning a credit union and every report of an examination shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department or credit union is a party. Such reports shall not be made public except when required in proper legal proceedings.

Section 184. KRS 299.030 is amended to read as follows:

(1) Persons desiring to form an organization for the purpose of transacting the business of life or casualty insurance, or both, upon the assessment or cooperative plan, may associate together and effect an organization as prescribed in this section.

(2) Any number of persons not less than thirteen (13) may associate to establish such an insurance company.

(3) In addition to the general requirements for all corporations, the articles of incorporation shall specify

the class of insurance the company proposes to transact; and on what business plan or principle; the number and amount of agreements for insurance, if any; and such other facts as may be necessary to explain and make manifest the object and purposes of the corporation. The words "insurance company" shall be a part of the title of every such corporation, and also the word "mutual."

(4) In addition to complying with the provisions of KRS *Chapter 271A* [~~271A.275~~], the incorporators shall file a certified copy of the articles of incorporation in the office of the commissioner.

Section 185. KRS 304.3-230 is amended to read as follows:

(1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the secretary of state as its attorney to receive service of lawful process issued against it in this state:

(a) Foreign or alien insurers;

(b) Domestic reciprocal insurers;

(c) Domestic Lloyd's insurers;

(d) Qualified self-insurers.

(2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.

(3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to industrial insureds as defined in KRS 304.11-020, shall be made upon the secretary of state, as provided in KRS 304.11-040.

(4) Service of lawful process against authorized domestic insurers shall be had pursuant to *Section 32 of this Act* [~~KRS 271A.070~~].

(5) Whenever the secretary of state is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and shall serve by certified mail, return receipt requested, a true copy of the summons with an attested copy of plaintiff's complaint to the secretary of state. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Kentucky Rules of Civil Procedure.

(6) The secretary of state shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.

(7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.

(8) The sheriff serving the summons upon the secretary of state shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

Section 186. KRS 304.22-030 is amended to read as follows:

A title insurer shall have corporate powers as set forth in *Section 23 of this Act* [~~KRS 271A.020~~], and in addition shall have power to:

(1) Examine titles to real estate and chattels real and personal, and to procure and furnish information relative thereto.

(2) Make and guarantee the correctness of searches of all instruments, liens, or changes affecting the titles set out in subsection (1) of this section.

(3) Make insurance of every kind pertaining to or connected with titles to real estate and chattels real and personal; and to make and issue such policies and other instruments as may be required to insure owners of real estate and chattels real and personal, mortgages, and others having an interest therein, from loss by reason of liens, encumbrances, and defective titles.

(4) Act as trustee under mortgages or deeds of trust executed to secure payment of bonds where the title to the real estate and chattels real and personal included in the mortgage or deed of trust has been examined and approved by the insurer; to act as agent in fact for investors in, and the holders of mortgages or deeds of trust or bonds, notes or other evidences of indebtedness mentioned in Subtitle 7, in the purchase, sale and servicing thereof.

(5) To acquire and hold, subject to [~~KRS 271A.705~~] and Subtitle 7, such real estate and chattels real and personal as may be necessary or convenient for the conduct of its business, including real estate and chattels real and personal taken in satisfaction of debts due the insurer or by subrogation under its guaranties or insurance, and to sell, lease, pledge, mortgage and convey such property.

Section 187. KRS 304.24-500 is amended to read as follows:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Such a domestic insurer will be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such a transfer such an insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in his discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or merger pursuant to *Section 120 of this Act* [~~KRS 271A.385(4)~~], or any other lawful method, shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring

insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

Section 188. KRS 362.095 is amended to read as follows:

(1) A foreign limited partnership may be authorized to do business in this state when, and only when, it has:

(a) Filed a certified copy of its articles of partnership or a certified copy of its certificate of limited partnership and all existing amendments in the office of the secretary of state, which may omit signature pages other than those signed by a general partner. It shall thereafter file a certified copy of subsequent amendments to its articleertificate in the office of the secretary of state, provided that no amendment indicating merely a change in limited partners need be filed. A limited partnership shall pay to the secretary of state an original filing fee of forty dollars ($40) and a recording fee of twenty dollars ($20) for recording the articles or certificate of partnership and accompanying amendments, and shall pay the same recording fee for recording subsequent amendments; and

(b) Designating a process agent, which shall have the same legal effect and be subject to the same requirements as a process agent for a foreign corporation under *Section 159 of this Act* [~~KRS 271A.555~~].

(2) The name of a foreign limited partnership shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name of the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, or any assumed name filed with the secretary of state pursuant to KRS 365.015, except that this provision shall not apply if the foreign limited partnership applying for a certificate of authority files with the secretary of state any one (1) of the following:

(a) A resolution adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter, or any assumed name filed with the secretary of state;

(b) The written consent of such other corporation or holder of a reserved or registered name or assumed name holder to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or

(c) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right to such foreign limited partnership to the use of such name in this state.

(3) A limited partnership registering to do business in this state under subsection (1) of this section shall not be required to list the names of each limited partner.

Section 189. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; the real name of a domestic limited partnership is that name given to it in its agreement of limited partnership and stated in its certificate of limited partnership filed pursuant to KRS 362.420(1)(a); the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under *Section 158 of this Act* [~~KRS 271A.530~~].

(2) (a) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name or any foreign limited partnership name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate or partnership name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate or partnership name;

(e) The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the secretary of state shall receive a fee of twenty dollars ($20) for filing each certificate.

Section 190. KRS 393.025 is amended to read as follows:

When property is paid [~~or delivered to the department~~] under this chapter or *Section 152 of this Act* [~~KRS 271A.510~~], the owner is not entitled to receive income or other increments accruing thereafter.

SECTION 191. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall apply to any corporation formed under the laws of this state unless the statutes relating to a corporation of that kind either are inconsistent with this chapter or state that the provisions of this chapter do not apply to it.

(2) Subject to the provisions of subsection (1) of this section, corporations may be organized under this chapter for any lawful purpose or purposes.

SECTION 192. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A foreign corporation authorized to transact business in this state on the effective date of this Act shall be subject to this Act but shall not be required to obtain a new certificate of authority to transact business under this Act.

SECTION 193. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the repeal of a statute by this Act does not affect:

(a) The operation of the statute or any action taken under it before its repeal;

(b) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(c) Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal; or

(d) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(2) If a penalty or punishment imposed for violation of a statute repealed by this Act is reduced by this Act, the penalty or punishment if not already imposed shall be imposed in accordance with this Act.

SECTION 194. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) On the effective date of this Act and thereafter, this Act shall apply to all domestic corporations in existence on the effective date that were incorporated under the present statutes or any prior law and those incorporated on or after the effective date to the extent provided in Section 191 of this Act.

(2) Before the effective date of this Act, the provisions of this Act shall not apply to any domestic corporation except in accordance with the following:

(a) The corporation's board of directors may adopt a resolution electing to have the provisions of this Act (except for Section 3, Section 15, Sections 17 to 22 and Section 173) apply to the corporation.

(b) The resolution shall specify a date (after July 15, 1988 and before January 1, 1989) on and after which the provisions will apply to the corporation.

(c) The resolution shall be filed in the office of the Secretary of State before the date specified in subsection (2)(b) of this section.

(3) The provisions of this Act (except for Section 3, Section 15, Sections 17 to 22 and Section 173) apply to each domestic corporation that complies with all the conditions prescribed in subsection (2) of this section. In addition, such a corporation shall continue to comply with the requirements of KRS 271A.396, 271A.397, 271A.398, 271A.399, 271A.615, 271A.620, 271A.625, 271A.630, and 271A.635 until January 1, 1989, but it is not subject to the provisions of KRS 271A.010 to 271A.395; KRS 271A.400 to 271A.610; and KRS 271A.640 to 271A.675.

Section 195. This Act shall take effect January 1, 1989.

Section 196. The following KRS sections are repealed:

271A.010 Definitions.

271A.015 Application and purposes.

271A.020 General powers.

271A.026 Indemnification of directors.

271A.030 Right of corporation to acquire and dispose of its own shares.

271A.035 Defense of ultra vires.

271A.040 Corporate name.

271A.045 Reserved name.

271A.050 Registered name.

271A.055 Renewal of registered name.

271A.060 Registered office and registered agent.

271A.065 Change of registered office or registered agent.

271A.070 Service of process on corporation.

271A.075 Authorized shares.

271A.080 Issuances of shares of preferred or special classes in series.

271A.085 Subscriptions for shares.

271A.090 Consideration for shares.

271A.095 Payment for shares.

271A.100 Stock rights and options.

271A.105 Determination of amount of stated capital.

271A.110 Expenses of organization, reorganization and financing.

271A.115 Certificates representing shares.

271A.120 Fractional shares.

271A.125 Liability of Subscribers and shareholders.

271A.130 Shareholders' preemptive rights.

271A.135 By-laws and other powers in emergency.

271A.140 Meetings of Shareholders.

271A.145 Notice of shareholders' meetings.

271A.150 Closing of transfer books and fixing record date.

271A.155 Voting record.

271A.160 Quorum of shareholders.

271A.165 Voting of shares.

271A.170 Voting trusts and agreements among shareholders.

271A.175 Board of directors.

271A.180 Number and election of directors.

271A.185 Classification of directors.

271A.190 Vacancies.

271A.195 Removal of directors.

271A.200 Quorum of directors.

271A.205 Director conflicts of interest.

271A.210 Executive and other committees.

271A.215 Directors' meetings — Conduct of meetings via telephone or similar communications equipment.

271A.220 Action by directors without a meeting.

271A.225 Dividends.

271A.230 Distributions from capital surplus.

271A.235 Loans to employes and directors.

271A.240 Liability of directors in certain cases.

271A.245 Provisions relating to actions by shareholders.

271A.250 Officers.

271A.255 Removal of officers.

271A.260 Books and records.

271A.265 Incorporators.

271A.270 Articles of incorporation.

271A.275 Filing of articles of incorporation.

271A.280 Effect of issuance of certificate of incorporation.

271A.285 Organization meeting of directors.

271A.290 Right to amend articles of incorporation.

271A.295 Amendment of articles.

271A.300 Class voting on amendments.

271A.305 Articles of amendment.

271A.310 Filing of articles of amendment.

271A.315 Effect of certificate of amendment.

271A.320 Restated articles of incorporation.

271A.325 Amendment of articles of incorporation in reorganization proceedings.

271A.330 Restriction on redemption or purchase of redeemable shares.

271A.335 Cancellation of redeemable shares by redemption or purchase.

271A.340 Cancellation of other reacquired shares.

271A.345 Reduction of stated capital in certain cases.

271A.350 Special provisions relating to surplus and reserves.

271A.355 Procedure for merger.

271A.360 Procedure for consolidation.

271A.365 Approval by shareholders.

271A.370 Articles of merger on consolidation.

271A.375 Merger of subsidiary corporation.

271A.380 Effect of merger or consolidation.

271A.385 Merger or consolidation of domestic and foreign corporations.

271A.390 Sale of assets in regular course of business and mortgage or pledge of assets.

271A.395 Sale of assets other than in regular course of business.

271A.400 Right of shareholders to dissent.

271A.405 Rights of dissenting shareholders.

271A.410 Voluntary dissolution by incorporations.

271A.415 Voluntary dissolution by consent of shareholders.

271A.420 Voluntary dissolution by act of corporation.

271A.425 Filing of statement of intent to dissolve.

271A.430 Effect of statement of intent to dissolve.

271A.435 Procedure after filing of statement of intent to dissolve.

271A.440 Revocation of voluntary dissolution proceedings by consent of shareholders.

271A.445 Revocation of voluntary dissolution proceedings by act of corporation.

271A.450 Filing of statement of revocation of voluntary dissolution proceedings.

271A.455 Effect of statement of revocation of voluntary dissolution proceedings.

271A.460 Articles of dissolution.

271A.465 Filing of articles of dissolution.

271A.470 Involuntary dissolution.

271A.475 Jurisdiction of court to liquidate assets and business of corporation.

271A.480 Procedure in liquidation of corporation by court.

271A.485 Qualifications of receivers.

271A.490 Filing of claims in liquidation proceedings.

271A.495 Discontinuance of liquidation proceedings.

271A.500 Decree of involuntary dissolution.

271A.505 Filing of decree of dissolution.

271A.510 Deposit with department of revenue of amount due certain shareholders.

271A.515 Survival of remedy after dissolution.

271A.520 Admission of foreign corporation.

271A.525 Powers of foreign corporation.

271A.530 Corporate name of foreign corporation.

271A.535 Change of name by foreign corporation.

271A.540 Application for certificate of authority.

271A.545 Filing of application for certificate of authority.

271A.550 Effect of certificate of authority.

271A.555 Registered office and registered agent of foreign corporation.

271A.560 Change of registered office or registered agent of foreign corporation.

271A.565 Service of process on foreign corporation.

271A.570 Amendment to articles of incorporation of foreign corporation.

271A.575 Merger of foreign corporation authorized to transact business in this state.

271A.580 Amended certificate of authority.

271A.585 Withdrawal of foreign corporation.

271A.590 Filing of application for withdrawal.

271A.595 Revocation of certificate of authority.

271A.600 Issuance of certificate of revocation.

271A.605 Application to corporations heretofore authorized to transact business in this state.

271A.610 Transacting business without certificate of authority.

271A.615 Annual report of domestic and foreign corporations — Reinstatement of certificate of incorporation.

271A.620 Filing of annual report of domestic and foreign corporations.

271A.625 Fees and charges to be collected by secretary of state.

271A.630 Fees for filing documents and issuing certificates.

271A.635 Miscellaneous charges.

271A.640 Penalties imposed upon corporations.

271A.645 Certificates and certified copies to be received in evidence.

271A.650 Forms to be furnished by Secretary of State.

271A.655 Greater voting requirements.

271A.660 Waiver of notice.

271A.665 Action by shareholders without a meeting.

271A.670 Unauthorized assumption of corporate powers.

271A.675 Application to existing corporations.

271A.680 Effect of repeal of prior acts.

271A.705 Limitation on business and holding of real estate; escheat.

273.383 Limitations on business and holding of real estate — Escheat procedure.

The Committee Substitute to **HB 323** is as follows:

HB 323, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(2) This Act must require or permit filing the document in the office of the secretary of state.

(3) The document shall contain the information required by this Act. It may contain other information

as well.

(4) The document shall be typewritten or printed.

(5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.

(6) The document shall be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain: the corporate seal; an attestation by the secretary or an assistant secretary; an acknowledgment, verification, or proof; or a statement regarding the preparer of the document which complies with KRS 382.335.

(8) If the secretary of state has prescribed a mandatory form for the document under Section 2 of this Act, the document shall be in or on the prescribed form.

(9) The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, the organization tax and any penalty required by this Act or other law to be collected by the office of the secretary of state.

(10) One (1) of such exact or conformed copies shall then be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.

SECTION 2. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state may prescribe and furnish on request forms for:

(a) An application for a certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent; and

(e) The annual report.

If the secretary of state so requires, use of these forms shall be mandatory.

(2) The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this Act but their use shall not be mandatory.

SECTION 3. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	*Articles of incorporation*	*$25*
(b)	*Application for use of indistinguishable name*	*$10*
(c)	*Application for reserved name*	*$10*
(d)	*Notice of transfer of reserved name*	*$10*
(e)	*Application for registered name*	*$10*
(f)	*Application for renewal of registered name*	*$10*
(g)	*Corporation's statement of change of registered agent or registered office or both*	*$10*
(h)	*Agent's statement of change of registered office for each affected corporation*	*$10*
(i)	*Agent's statement of resignation*	*No fee*
(j)	*Amendment of articles of incorporation*	*$25*
(k)	*Restatement of articles of incorporation*	*$25*
(l)	*Amended and restated articles*	*$50*
(m)	*Articles of merger or share exchange*	*$25*
(n)	*Articles of dissolution*	*$15*
(o)	*Articles of revocation of dissolution*	*$10*
(p)	*Certificate of administrative dissolution*	*No fee*
(q)	*Application for reinstatement following administrative dissolution*	*$100*
(r)	*Certificate of reinstatement*	*No fee*
(s)	*Certificate of judicial dissolution*	*No fee*
(t)	*Application for certificate of authority*	*$60*
(u)	*Application for amended certificate of authority*	*$40*
(v)	*Application for certificate of withdrawal*	*$20*

(w) Certificate of revocation of authority to transact business	*No fee*
(x) Annual report	*$10*
(y) Articles of correction	*$10*
(z) Application for certificate of existence or authorization	*$10*
(aa) Any other document required or permitted to be filed by this Act	*$10*

(2) The secretary of state shall collect a fee of $10 each time process is served on him under this Act. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.

(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) Fifty (50) cents a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64:012 for recording and issuing reports, articles, and statements pertaining to corporations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section and subsection (3) of Section 5 of this Act, a document accepted for filing shall be effective:

(a) At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document; or

(b) At the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date, and if it does so the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth (90th) day after the date it is filed.

(3) A document filed in accordance with subsections (1) and (2) of this section shall be effective regardless of a failure to file the document with the county clerk pursuant to subsection (10) of Section 1 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A domestic foreign corporation may correct a document filed by a secretary of state if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document is corrected:

(a) By preparing articles of correction that:

1. Describe the document (including its filing date) or attach a copy of it to the articles;

2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(b) By delivering the articles to the secretary of state for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

SECTION 6. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If a document delivered to the office of the secretary of state for filing satisfies the requirements of Section 1 of this Act, the secretary of state shall file it.

(2) The secretary of state files a document by stamping or otherwise endorsing "Filed," together with his name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee. After filing a document, except as provided in Sections 31 and 161 of this Act, the secretary of state shall deliver the document copies, with the filing fee receipt (or acknowledgment of receipt if no fee is required) attached, to the domestic or foreign corporation or its representative.

(3) If the secretary of state refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(4) The secretary of state's duty to file documents under this section shall be ministerial. His filing or refusal to file a document shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 7. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state refuses to file a document delivered to his office for filing, the domestic or foreign corporation may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of his refusal to file.

(2) The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 8. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A certificate attached to a copy of the document filed by the secretary of state, bearing his signature (which *may be in facsimile) and the seal of this state, shall be conclusive evidence that the original document is on file with the secretary of state.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(2) A certificate of existence or authorization shall set forth:

(a) The domestic corporation's corporate name or the foreign corporation's corporate name used in this state;

(b) That the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to transact business in this state;

(c) That all fees, taxes, and penalties owed to this state have been paid, if:

1. Payment is reflected in the records of the secretary of state; and

2. Non-payment affects the existence or authorization of the domestic or foreign corporation;

(d) That its most recent annual report required by Section 173 of this Act has been delivered to the secretary of state;

(e) That articles of dissolution have not been filed; and

(f) Other facts of record in the office of the secretary of state that may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this state.

SECTION 10. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person commits an offense if he signs a document he knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

(2) An offense under this section shall be a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SECTION 11. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state shall have the power reasonably necessary to perform the duties required of him by this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

In this Act:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this Act.

(5) "Deliver" includes mail.

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in Section 13 of this Act.

(8) "Employe" includes an officer but not a director. A director may accept duties that make him also an employe.

(9) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Governmental subdivision" includes authority, county, district, and municipality.

(12) "Includes" denotes a partial definition.

(13) "Individual" includes the estate of an incompetent or deceased individual.

(14) "Means" denotes an exhaustive definition.

(15) "Notice" is defined in Section 13 of this Act.

(16) "Person" includes individual and entity.

(17) "Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(18) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(19) "Record date" means the date established under Sections 33 to 67 of this Act on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this Act. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(20) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of Section 89 of this Act for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(21) "Share" means the unit into which the proprietary interests in a corporation are divided.

(22) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(23) "State" when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(24) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(26) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this Act are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this Act to vote generally on the matter are for that purpose a single voting group.

SECTION 13. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Notice under this Act shall be in writing unless oral notice is reasonable under the circumstances.

(2) Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective when mailed, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(4) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice shall be effective when communicated if communicated in a comprehensible manner.

(7) If this Act prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Act, those requirements shall govern.

SECTION 14. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this Act, the following identified as a shareholder in a corporation's current record of shareholders shall constitute one (1) shareholder:

(a) Three (3) or fewer co-owners;

(b) A corporation, partnership, trust, estate, or other entity;

(c) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(2) For purposes of this Act, shareholdings registered in substantially similar names shall constitute one (1) shareholder if it is reasonable to believe that the names represent the same person.

SECTION 15. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

One (1) or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

SECTION 16. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of Section 26 of this Act;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(d) The mailing address of the corporation's principal office; and

(e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporation;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares;

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this Act is required or permitted to be set forth in the bylaws; and

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. Under Section 88 of this Act; or

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 85 of this Act.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed by the secretary of state.

(2) The secretary of state's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in proceedings by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

SECTION 18. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this Act, shall be jointly and severally liable for all liabilities created while so acting.

SECTION 19. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organization meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organization meeting at the call of a majority of the incorporators:

1. To elect directors and complete the organization of the corporation; or

2. To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this Act to be taken by incorporators at an organization meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(3) An organization meeting may be held in or out of this state.

SECTION 20. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(2) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

SECTION 21. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4) of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(a) Procedures for calling a meeting of the directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws shall remain effective during the emergency. The emergency bylaws shall not be effective after the emergency ends.

(3) Corporate action taken in good faith in accordance with the emergency bylaws:

(a) Shall bind the corporation; and

(b) Shall not be used to impose liability on a corporate director, officer, employe, or agent.

(4) An emergency shall exist for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

SECTION 22. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Every corporation incorporated under this Act shall have the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(2) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this Act only if permitted by, and subject to all limitations of, the other statute.

SECTION 23. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless its articles of incorporation provide otherwise, every corporation shall have perpetual duration and succession in its corporate name and shall have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to:

(a) Sue and be sued, complain and defend in its corporate name;

(b) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(c) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;

(d) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(e) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(f) Purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

(g) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(h) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(i) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(j) Conduct its business, locate offices, and exercise the powers granted by this Act within or without this state;

(k) Elect directors and appoint officers, employes and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(l) Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employes, and agents;

(m) Make donations for the public welfare or for charitable, scientific, or educational purposes;

(n) Transact any lawful business that will aid governmental policy; and

(o) Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

(2) Notwithstanding the provisions of subsection (1)(b) of this section, the presence or absence of a corporate seal on or from a writing shall neither add to nor detract from the legality thereof nor affect its validity in any manner or respect.

SECTION 24. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) In anticipation of or during an emergency defined in subsection (4) of this section, the board of directors of a corporation may:

(a) Modify lines of succession to accommodate the incapacity of any director, officer, employe, or agent; and

(b) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(2) During an emergency defined in subsection (4) of this section, unless emergency bylaws provide otherwise;

(a) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(b) One (1) or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(3) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(a) Shall bind the corporation; and

(b) Shall not be used to impose liability on a corporate director, officer, employe, or agent.

(4) An emergency shall exist for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

SECTION 25. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the validity of corporate action shall not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged in a proceeding by:

(a) A shareholder against the corporation to enjoin the act;

(b) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employe, or agent of the corporation; or

(c) The attorney general under Section 148 of this Act.

(d) In a shareholder's proceeding under subsection (2)(a) of this section to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss (other than anticipated profits) suffered by the corporation or another party because of enjoining the unauthorized act.

SECTION 26. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporate name:

(a) Shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; and

(b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by Section 22 of this Act and its articles or incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Section 27 or 28 of this Act;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015.

(3) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(5) This Act does not control the use of fictitious names.

(6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 27. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person may reserve the exclusive use of a corporate name including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a non-renewable one hundred twenty (120) day period.

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

SECTION 28. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by Section 158 of this Act, if the name is distinguishable upon the records of the secretary of state from the corporate names that are not available under subsection (2)(c) of Section 26 of this Act.

(2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by Section 158 of this Act, by delivering to the secretary of state for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by Section 158 of this Act, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed shall renew the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this Act or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

SECTION 29. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each corporation shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 30. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the corporation;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any corporation for which he is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 31. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign his agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(2) After filing the statement the secretary of state shall mail one (1) copy to the registered office (if not discontinued) and the other copy to the corporation at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first (31st) day after the date on which the statement was filed.

SECTION 32. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's registered agent shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(2) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service shall be perfected under this subsection at the earliest of:

(a) The date the corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

SECTION 33. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue. If more than one (1) class of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class, and, prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class shall have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by Section 34 of this Act.

(2) The articles of incorporation shall authorize:

(a) One (1) or more classes of shares that together have unlimited voting rights; and

(b) One (1) or more classes of shares (which may be the same class or classes as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one (1) or more classes of shares that:

(a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited by this Act;

(b) Are redeemable or convertible as specified in the articles of incorporation:

1. At the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event;

2. For cash, indebtedness, securities, or other property; or

3. In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(d) Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(4) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) of this section shall not be considered exhaustive.

SECTION 34. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the articles of incorporation so provide, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights (within the limits set forth in Section 33 of this Act) of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) One (1) or more series within a class before the issuance of any shares of that series.

(2) Each series of a class shall be given a distinguishing designation.

(3) All shares of a series shall have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

(4) Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that

set forth:

(a) The name of the corporation;

(b) The text of the amendment determining the terms of the class or series of shares;

(c) The date it was adopted; and

(d) A statement that the amendment was duly adopted by the board of directors.

SECTION 35. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued shall be outstanding shares until they are reacquired, redeemed, converted, or cancelled.

(2) The reacquisition, redemption, or conversion of outstanding shares shall be subject to the limitations of subsection (3) of this section and to Section 48 of this Act.

(3) At all times that shares of the corporation are outstanding, one (1) or more shares that together have unlimited voting rights and one (1) or more shares that together are entitled to receive the net assets of the corporation upon dissolution shall be outstanding.

SECTION 36. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may:

(a) Issue fractions of a share or pay in money the value of fractions of a share;

(b) Arrange for disposition of fractional shares by the shareholders; and

(c) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(2) Each certificate representing scrip shall be conspicuously labeled "scrip" and shall contain the information required by subsection (2) of Section 42 of this Act.

(3) The holder of a fractional share shall be entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip shall not be entitled to any of these rights unless the scrip provides for them.

(4) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including:

(a) That the scrip will become void if not exchanged for full shares before a specified date; and

(b) That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

SECTION 37. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A subscription for shares entered into before incorporation shall be irrevocable for six (6) months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2) The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors shall be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3) Shares issued pursuant to subscriptions entered into before incorporation shall be fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(4) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty (20) days after the corporation sends written demand for payment to the subscriber.

(5) A subscription agreement entered into after incorporation shall be a contract between the subscriber and the corporation subject to Section 38 of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors may authorize shares to be issued for consideration consisting only of an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of consideration for the issuance of shares at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of shares shall be void.

(3) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board of directors authorized the issuance of shares in accordance with this section, the shares issued therefor shall be considered fully paid and nonassessable.

(5) The consideration received for the issuance of shares having a par value, to the extent in excess of the par value of such shares, shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in Section 40(1) of this Act. The consideration received for the issuance of shares without par value shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in Section 40(1) of this Act. The amount of capital surplus of a corporation immediately prior to the effective date of this Act shall also be deemed to be consideration paid for the issuance of shares, from time to time, as a share dividend within the meaning of this subsection.

(6) To the extent consolidated net income of the corporation or consideration theretofore received by the corporation for the issuance of shares is relied upon for the issuance of a share dividend, as provided in Section 40(1) of this Act, the board of directors shall designate some or all of such consolidated net income or existing consideration as the consideration paid for the issuance of such shares as a share dividend, and such designated amount shall thereafter not be included in the amount available under Section 40(1) of this Act as consideration for the issuance of shares as share dividends.

SECTION 39. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A purchaser from a corporation of its own shares shall not be liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(2) Unless otherwise provided in the articles of incorporation, a shareholder of a corporation shall not be personally liable for the acts or debts of the corporation except that he may become personally liable by reason of his own acts or conduct.

SECTION 40. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata to the corporation's shareholders or to the shareholders of one (1) or more classes or series to the extent:

(a) The aggregate consideration received by the corporation for the issuance of all shares of such class or series then outstanding includes consideration for the issuance of such shares pro rata, as provided in Section 38(5) of this Act; and/or

(b) The consolidated net income of the corporation, measured either for the current fiscal year or for all prior fiscal years, less the amount of distributions in the form of dividends theretofore paid to share holders, is not less than the consideration determined by the board of directors for the issuance of such shares pro rate.

An issuance of shares under this subsection shall be considered a share dividend.

(2) Shares of one (1) class or series may not be issued as a share dividend in respect of shares of another class or series unless:

(a) The articles of incorporation so authorize;

(b) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(c) There are no outstanding shares of the class or series to be issued.

(3) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it shall be the date the board of directors authorizes the share dividend.

SECTION 41. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the terms and conditions upon which and the consideration for which the shares are to be issued.

SECTION 42. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Shares may but need not be represented by certificates. Unless this Act or another statute expressly provides otherwise, the rights and obligations of shareholders shall be identical whether or not their shares are represented by certificates.

(2) At a minimum each share certificate shall state on its face:

(a) The name of the issuing corporation and that it is organized under the law of this state;

(b) The name of the person to whom issued; and

(c) The number and class of shares and the designation of the series, if any, the certificate represents.

(3) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the board of directors to determine variations for future series) shall be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(4) Each share certificate:

(a) Must be signed (either manually or in facsimile) by two (2) officers designated in the bylaws or by the board of directors; and

(b) May bear the corporate seal or its facsimile.

(5) If the person who signed (either manually or in facsimile) a share certificate no longer holds office when the certificate is issued, the certificate shall nevertheless be valid.

SECTION 43. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by subsections (2) and (3) of Section 42 of this Act and, if applicable, Section 44 of this Act.

SECTION 44. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and the holder or transferee has actual knowledge of the restriction or its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by subsection (2) of Section 43 of this Act. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

(3) A restriction on the transfer or registration of transfer of shares shall be authorized:

(a) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(b) To preserve exemptions under federal or state securities law; or

(c) For any other reasonable purpose.

(4) A restriction on the transfer or registration of transfer of shares may without limitation:

(a) Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

(b) Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire the restricted shares;

(c) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(d) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SECTION 45. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may pay or allow the expenses of selling or underwriting its shares or other securities, and *of organizing or reorganizing the corporation, from the consideration received for shares without thereby rendering such shares or other securities not fully paid or assessable.*

SECTION 46. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except:

(a) To the extent the articles of incorporation so provide; and

(b) To the extent provided in subsection (4) of this section.

(2) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights" (or words of similar import) means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation shall have a preemptive right granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(b) A shareholder may waive his preemptive right. A waiver evidenced by a writing shall be irrevocable even though it is not supported by consideration.

(c) There shall be no preemptive right with respect to:

1. Shares issued as compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

2. Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employes of the corporation, its subsidiaries or affiliates;

3. Shares authorized in articles of incorporation that are issued within six (6) months from the effective date of incorporation; and

4. Shares sold otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one (1) year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one (1) year shall be subject to the shareholders' preemptive rights.

(3) For purposes of this section, "shares" include a security convertible into or carrying a right to subscribe for or acquire shares.

(4) Except to the extent limited or denied by this subsection, shareholders of a corporation that existed on the effective date of this Act whose articles of incorporation did not on the effective date of this Act contain a provision specifically addressing preemptive rights shall have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

(a) No preemptive right shall exist:

1. To acquire any shares issued to directors, officers or employes pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or when authorized by and consistent with a plan theretofore approved by such a vote of shareholders; or

2. To acquire any shares sold otherwise than for cash.

(b) Holders of shares of any class that is preferred or limited as to dividends or assets shall not be entitled to any preemptive right.

(c) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall not be entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of any class with general voting rights but without preferential rights to distributions or assets or carrying a right to subscribe to or acquire shares of any class with general voting rights but without preferential rights to distributions or assets.

(d) Holders of shares of any class with general voting rights shall have no preemptive rights to shares of a class which is identical as to rights except that the class has general voting rights.

(e) The preemptive right shall be only an opportunity to acquire shares or other securities under such terms and conditions as the board of directors may fix for the purpose of providing a fair and reasonable opportunity to exercise such right.

(f) This subsection shall not apply to any class of stock of any corporation after the corporation's articles of incorporation are amended to limit or deny the preemptive rights of any class of its stock.

SECTION 47. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may acquire its own shares and shares so acquired shall constitute authorized but unissued shares.

(2) If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares shall be reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

(3) Articles of amendment may be adopted by the board of directors without shareholder action, shall be delivered to the secretary of state for filing, and shall set forth:

(a) The name of the corporation;

(b) The reduction in the number of authorized shares, itemized by class and series; and

(c) The total number of authorized shares, itemized by class and series, remaining after reduction of the shares.

SECTION 48. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3) of this section.

(2) If the board of directors does not fix the record date for determining shareholders entitled to a distribution (other than one involving a purchase, redemption or other acquisition of the corporation's shares), it shall be the date the board of directors authorizes the distribution.

(3) No distribution shall be made if, after giving it effect:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business;

or

(b) The corporation's total assets would be less than the sum of its total liabilities plus (unless the articles of incorporation permit otherwise) the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board of directors may base a determination that a distribution is not prohibited under subsection (3) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(5) Except as provided in subsection (7) of this section, the effect of a distribution under subsection (3) of this section shall be measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of:

1. The date money or other property is transferred or debt incurred by the corporation; or

2. The date the shareholder ceases to be a shareholder with respect to the acquired shares;

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(c) In all other cases, as of:

1. The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or

2. The date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(6) A corporation's indebtedness to a shareholder incurred by a reason of a distribution made in accordance with this section shall be at parity with the corporation's indebtedness to its general creditors except to the extent subordinated by agreement.

(7) Indebtedness of a corporation, including indebtedness issued as a distribution, shall not be considered a liability for purposes of determinations under subsection (3) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest shall be treated as a distribution, the effect of which is measured on the date the payment is actually made.

SECTION 49. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws.

(2) Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(3) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws shall not affect the validity of any corporate action.

SECTION 50. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) If the holders of at least thirty-three and one-third percent (33 1/3%) (or such higher or lower percentage as is contained in the articles of incorporation) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(2) If not otherwise fixed under Section 51 or 55 of this Act, the record date for determining shareholders entitled to demand a special meeting shall be the date the first shareholder signs the demand.

(3) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(4) Only business within the purpose or purposes described in the meeting notice required by subsection (3) of Section 53 of this Act may be conducted at a special shareholders' meeting.

SECTION 51. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The circuit court for the county where a corporation's principal office (or, if none in this state, its registered office) is located may summarily order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or

(b) On application of a shareholder who signed a demand for a special meeting valid under Section 50 of this Act, if:

1. Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to the corporation's secretary; or

2. The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

SECTION 52. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in the articles of incorporation, action required or permitted by this Act to be taken at a shareholders' meeting may be taken without a meeting and without prior notice except as provided in subsection (7) of this section, if the action is taken by all the shareholders entitled to vote on the action.

(2) If the articles of incorporation so provide, any action except the election of directors pursuant to Section 64 of this Act required or permitted by this Act to be taken at a shareholders' meeting may be taken without a meeting and without prior notice except as provided in subsection (7) of this section if the action is taken by shareholders entitled to vote on the action representing not less than eighty percent (80%) (or such higher percentage required by this Act or the articles of incorporation) of the votes entitled to be cast.

(3) The action taken under this section shall be evidenced by one (1) or more written consents describing the action taken, signed by the shareholders taking the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(4) Action taken under this section shall be effective when consents representing the votes necessary to take the action under this section are delivered to the corporation, or upon delivery of the consents representing the necessary votes, as of a different date if specified in the consent.

(5) Any shareholder giving a consent may revoke the consent by a writing received by the corporation prior to the time that consents representing the votes required to take the action under this section have been delivered to the corporation but may not do so thereafter.

(6) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

(7) Prompt notice of the taking of any action by shareholders without a meeting under this section by less than unanimous written consent shall be given to those shareholders entitled to vote on the action who have not consented in writing.

(8) If this Act requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by consent of the voting shareholders under this section, the corporation shall give its nonvoting shareholders and voting shareholders whose consent is not solicited, written notice of the proposed action at least ten (10) days before the action is taken. The notice shall contain or be accompanied by the same material that, under this Act, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

SECTION 53. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than ten (10) nor more than sixty (60) days before the meeting date. Unless this Act or the articles of incorporation require otherwise, the corporation shall be required to give notice only to shareholders entitled to vote at the meeting.

(2) Unless this Act or the articles of incorporation require otherwise, notice of an annual meeting shall not be required to include a description of the purpose or purposes for which the meeting is called.

(3) Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.

(4) If not otherwise fixed under Section 51 or 55 of this Act, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting shall be the day before the first notice is delivered to shareholders.

(5) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice shall not be required to be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under Section 55 of this Act, however, notice of the adjourned meeting shall be given under this section to persons who are shareholders as of the new record date.

SECTION 54. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder may waive any notice required by this Act, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver shall be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) A shareholder's attendance at a meeting shall:

(a) Waive objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(b) Waive objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it

is presented.

SECTION 55. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The bylaws may fix or provide the manner of fixing the record date for one (1) or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

(2) A record date fixed under this section shall not be more than seventy (70) days before the meeting or action requiring a determination of shareholders.

(3) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting shall be effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

SECTION 56. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After fixing a record date for a meeting, a corporation shall prepare a list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list shall be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(2) The shareholders' list shall be available for inspection by any shareholder, beginning five (5) business days before the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, his agent, or attorney shall be entitled on written demand to inspect and, subject to the requirements of subsection (3) of Section 168 of this Act, to copy the list, during regular business hours and at his expense, during the period it is available for inspection.

(3) The corporation shall make the shareholders' list available at the meeting, and any shareholder, his agent, or attorney shall be entitled to inspect the list at any time during the meeting or any adjournment.

(4) Refusal or failure to prepare or make available the shareholders' list shall not affect the validity of action taken at the meeting.

SECTION 57. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2) and (4) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.

(2) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(3) Subsection (2) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(4) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

SECTION 58. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder may vote his shares in person or by proxy.

(2) A shareholder may appoint a proxy to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. For purposes of this section and Section 60 of this Act, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy shall be deemed to be a sufficient, signed appointment form.

(3) An appointment of a proxy shall be effective when the appointment form is received by the secretary or other officer or agent authorized to tabulate votes. An appointment shall be valid for eleven (11) months unless a longer period is expressly provided in the appointment form.

(4) An appointment of a proxy shall be revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation who extended it credit under terms requiring the appointment;

(d) An employe of the corporation whose employment contract requires the appointment; or

(e) A party to a voting agreement created under Section 66 of this Act.

(5) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section shall be revocable when the interest with which it is coupled is extinguished. The revocation of an appointment under this subsection shall not be effective until the secretary of the corporation has received written notice of the revocation.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to Section 60 of this Act and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation shall be entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

SECTION 59. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(2). The procedure may set forth:

(a) The types of nominees to which it applies;

(b) The rights or privileges that the corporation recognizes in a beneficial owner;

(c) The manner in which the procedure is selected by the nominee;

(d) The information that must be provided when the procedure is selected;

(e) The period for which selection of the procedure is effective; and

(f) Other aspects of the rights and duties created.

SECTION 60. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith shall be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder. For purposes of this section, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy may be accepted by the corporation if acting in good faith, as a sufficient, signed appointment form.

(2) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith shall nevertheless be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(e) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation shall be entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(4) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section shall be valid unless a court of competent jurisdiction determines otherwise.

(6) Shares standing in the name of another corporation, domestic or foreign, may be voted by either the president of such corporation or by proxy appointed by him unless the board of directors of such other corporation authorizes another person to vote such shares.

(7) Shares held by an administrator, executor, guardian, or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(8) Where shares are held jointly by three (3) or more fiduciaries acting under an instrument becoming effective after June 30, 1946, the will of the majority of such fiduciaries shall control the manner of voting or the giving of a proxy unless the instrument or order appointing the fiduciaries otherwise directs. Where,

in any case, fiduciaries are equally divided upon the manner of voting shares jointly held by them, any court of competent jurisdiction may, upon petition filed by any of the fiduciaries, or by any beneficiary, appoint an additional person to act with the fiduciaries in determining the manner in which the shares shall be voted upon the particular questions as to which the fiduciaries are divided.

(9) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(10) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the share so transferred.

SECTION 61. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this Act provide otherwise, a majority of the votes entitled to be cast on the matter by the voting group shall constitute a quorum of that voting group for action on that matter.

(2) Once a share is represented for any purpose at a meeting, it shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(3) If a quorum exists, action on a matter (other than the election of directors) by a voting group shall be approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this Act require a greater number of affirmative votes.

(4) An amendment of articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (1) or (3) of this section shall be governed by Section 63 of this Act.

(5) The election of directors shall be governed by Section 64 of this Act.

SECTION 62. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the articles of incorporation or this Act provide for voting by a single voting group on a matter, action on that matter shall be taken when voted upon by that voting group as provided in Section 61 of this Act.

(2) If the articles of incorporation or this Act provide for voting by two (2) or more voting groups on a matter, action on that matter shall be taken only when voted upon by each of those voting groups counted separately as provided in Section 61 of this Act. Action may be taken by one (1) voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

SECTION 63. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is provided for by this Act.

(2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect.

SECTION 64. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

At each election for directors each shareholder entitled to vote at such election shall have the right to cast, in person or by proxy, as many votes in the aggregate as he shall be entitled to vote under the corporation's articles of incorporation, multiplied by the number of directors to be elected at such election; and each shareholder *may cast the whole number of votes for one (1) candidate, or distribute such votes among two (2) or more candidates. Such directors shall not be elected in any other manner.*

SECTION 65. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust (which may include anything consistent with its purpose) and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(2) A voting trust shall become effective on the date the first shares subject to the trust are registered in the trustee's name. A voting trust shall be valid for not more than ten (10) years after its effective date unless extended under subsection (3) of this section.

(3) All or some of the parties to a voting trust may extend it for additional terms of not more than ten (10) years each by signing an extension. An extension shall be valid for ten (10) years from the date the first shareholder signs the extension agreement. The voting trustee shall deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement shall bind only those parties signing it.

SECTION 66. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section shall not be subject to the provisions of Section 65 of this Act.

(2) A voting agreement created under this section shall be specifically enforceable.

SECTION 67. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.

(2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.

(4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.

SECTION 68. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section, each corporation shall have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation.

(3) A corporation having fifty (50) or fewer shareholders may dispense with or limit the authority of a board of directors by describing in its articles of incorporation who will perform some or all of the duties of a board of directors.

SECTION 69. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The articles of incorporation or bylaws may prescribe qualifications for directors. A director shall not be required to be a resident of this state or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

SECTION 70. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A board of directors shall consist of one (1) or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) If a board of directors has power to fix or change the number of directors, the board may increase or decrease by thirty percent (30%) or less the number of directors last approved by the shareholders, but only the shareholders may increase or decrease by more than thirty percent (30%) the number of directors last approved by the shareholders.

(3) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed to a variable-range size board or vice versa.

(4) Directors shall be elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under Section 73 of this Act.

SECTION 71. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one (1) or more authorized classes of shares. A class (or classes) of shares entitled to elect one (1) or more directors is a separate voting group for purposes of the election of directors.

SECTION 72. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The terms of the initial directors of a corporation shall expire at the first shareholders' meeting at which directors are elected.

(2) The terms of all other directors shall expire at the next annual shareholders' meeting following their election unless their terms are staggered under Section 73 of this Act.

(3) A decrease in the number of directors shall not shorten an incumbent director's term.

(4) The term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.

(5) Despite the expiration of a director's term, he shall continue to serve until his successor is elected and qualifies or until there is a decrease in the number of directors.

SECTION 73. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If there are nine (9) or more directors, the articles of incorporation may provide for staggering their terms by dividing the total number of directors into (2) or three (3) groups, with each group containing one-half (1/2) or one-third (1/3) of the total, as near as may be. In that event, the terms of directors in the first group shall expire at the first annual shareholders' meeting after their election, the terms of the second group shall expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, shall expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of two (2) years or three (3) years, as the case may be, to succeed those whose terms expire.

SECTION 74. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director may resign at any time by delivering written notice to the board of directors, its chairman, or to the corporation.

(2) A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date.

SECTION 75. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The shareholders may remove one (1) or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him.

(3) A director may not be removed if the number of votes sufficient to elect him under cumulative voting is voted against his removal.

(4) A director shall be removed by the shareholders only at a meeting called for the purpose of removing him and the meeting notice shall state that the purpose, or one (1) of the purposes, of the meeting is removal of the director.

SECTION 76. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(a) The shareholders may fill the vacancy;

(b) The board of directors may fill the vacancy; or

(c) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group shall be entitled to vote to fill the vacancy if it is filled by the shareholders.

(3) A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date under subsection (2) of Section 74 of this Act or otherwise) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

SECTION 77. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

SECTION 78. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The board of directors may hold regular or special meetings in or out of this state.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during this meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

SECTION 79. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Act to be taken at a board of director's meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one (1) or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

(2) Action taken under this section shall be effective when the last director signs the consent, unless the consent specifies a different effective date.

(3) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

SECTION 80. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two (2) days' notice of the date, time, and place of the meeting. Unless otherwise provided by the articles of incorporation or bylaws, the notice shall not be required to describe the purpose of the special meeting.

SECTION 81. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director may waive any notice required by this Act, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as provided by subsection (2) of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(2) A director's attendance at or participation in a meeting shall waive any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

SECTION 82. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws require a greater number, a quorum of a board of directors shall consist of:

(a) A majority of the fixed number of directors if the corporation has a fixed board size; or

(b) A majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

(2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third (1/3) of the fixed or prescribed number of directors determined under subsection (1) of this section.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present

shall be the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken shall be deemed to have assented to the action taken unless:

(a) He objects at the beginning of the meeting (or promptly upon his arrival) to holding it or transacting business at the meeting;

(b) His dissent or abstention from the action taken is entered in the minutes of the meeting; or

(c) He delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention shall not be available to a director who votes in favor of the action taken.

SECTION 83. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one (1) or more committees and appoint members of the board of directors to serve on them. Each committee shall have two (2) or more members, who serve at the pleasure of the board of directors.

(2) The creation of a committee and appointment of members to it shall be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles of incorporation or bylaws to take action under Section 82 of this Act.

(3) Sections 78 to 82 of this Act, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, shall apply to committees and their members as well.

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors under Section 68 of this Act.

(5) A committee shall not, however:

(a) Authorize distributions;

(b) Approve or propose to shareholders action that this Act requires be approved by shareholders;

(c) Fill vacancies on the board of directors or on any of its committees;

(d) Amend articles of incorporation pursuant to Section 104 of this Act;

(e) Adopt, amend, or repeal bylaws;

(f) Approve a plan of merger not requiring shareholder approval;

(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors; or

(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee (or a senior executive officer of the corporation) to do so within limits specifically prescribed by the board of directors.

(6) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in Section 85 of this Act.

SECTION 84. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If any provision of this Act or its application to any person or circumstances is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 85. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) A director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with subsection (2)(d) of Section 16 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation and its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 86. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction shall be a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(b) The material facts of the transaction and the directors interest were disclosed or known to the share holders entitled to vote and they authorized, approved, or ratified the transaction; or

(c) The transaction was fair to the corporation.

(2) For purposes of this section, a director of the corporation shall have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(3) For purposes of subsection (1)(a) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum shall be present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction shall not affect the validity of any action taken under subsection (1)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(4) For purposes of subsection (1)(b) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (2)(a) of this section, may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (1)(b) of this section. The vote of those shares, however, shall be counted in determining whether the transaction is approved under other sections of this Act. A majority of the shares that are entitled to be counted in a vote on the transaction under this subsection shall constitute a quorum for the purpose of taking action under this section.

SECTION 87. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided by subsection (3) of this section, a corporation may not lend money to or guarantee the obligation of a director of the corporation unless:

(a) The particular loan or guarantee is approved by a majority of the votes represented by the outstanding voting shares of all classes, voting as a single voting group, except the votes of shares owned by or voted under the control of the benefited director; or

(b) The corporation's board of directors determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees.

(2) The fact that a loan or guarantee is made in violation of this section shall not affect the borrower's liability on the loan or the corporation's liability on the guarantee.

(3) This section shall not apply to loans and guarantees authorized by statute regulating any special class of corporations.

SECTION 88. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director who votes for or who assents to a distribution made in violation of Section 48 of this Act or the articles of incorporation shall be personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating Section 48 of this Act or the articles of incorporation if it is established that he did not perform his duties in compliance with Section 85 of this Act. In any proceeding commenced under this section, a director shall have all of the defenses ordinarily available to a director.

(2) A director held liable under subsection (1) of this section for an unlawful distribution shall be entitled to contribution:

(a) From every other director who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) From each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of Section 48 of this Act or the articles of incorporation.

(3) A proceeding under this section shall be barred unless it is commenced within two (2) years after the date on which the effect of the distribution was measured under subsection (5) or (7) of Section 48 of this Act.

SECTION 89. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(2) A duly appointed officer may appoint one (1) or more officers or assistant officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall delegate to one (1) of the officers responsibility for preparing minutes of the directors' and shareholders' meetings and for authenticating records of the corporation.

(4) The same individual may simultaneously hold more than one (1) office in a corporation.

SECTION 90. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each officer shall have the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

SECTION 91. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer with discretionary authority shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) An officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties an officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the officer honestly believes to be reliable

and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's professional or expert competence.

(4) An officer shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation or its shareholders.

(6) A person bringing an action or monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when his section becomes effective.

SECTION 92. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer may resign at any time by delivering notice to the corporation. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor shall not take office until the effective date.

(2) A board of directors may remove any officer at any time with or without cause.

SECTION 93. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The appointment of an officer shall not itself create contract rights.

(2) An officer's removal shall not affect the officer's contract rights, if any, with the corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

SECTION 94. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

As used in Sections 94 to 102 of this Act:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or an individual, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employe, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employe benefit plan, or other enterprise. A director shall be considered to be serving an employe benefit plan at the corporations request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include counsel fees.

(4) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employe benefit plan), or reasonable expenses incurred with respect to a proceeding.

(5) "Official capacity" means:

(a) When used with respect to a director the office of director in a corporation; and

(b) When used with respect to an individual other than a director, as contemplated in Section 100 of this Act, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employe or agent on behalf of the corporation. "Official capacity" shall not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employe benefit plan, or other enterprise.

(6) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

SECTION 95. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (4) of this section, a corporation may indemnify an individual made a party to a proceeding because he is or was a director against liability incurred in the proceeding if:

(a) He conducted himself in good faith; and

(b) He reasonably believed:

1. In the case of conduct in his official capacity with the corporation, that his conduct was in its best interests; and

2. In all other cases, that his conduct was at least not opposed to its best interests; and

(c) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

(2) A director's conduct with respect to an employe benefit plan for a purpose he reasonably believed to be in the interests of the participants in and beneficiaries of the plan shall be conduct that satisfies the requirement of subsection (1)(b)2. of this section.

(3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not be, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) In connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation shall be limited to reasonable expenses incurred in connection with the proceeding.

SECTION 96. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly *successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he is or was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding.*

SECTION 97. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director furnishes the corporation a written affirmation of his good faith belief that he has met the standard of conduct described in Section 95 of this Act;

(b) The director furnishes the corporation a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct; and

(c) A determination is made that the facts then known to those making the determination would not preclude indemnification under Sections 94 to 102 of this Act.

(2) The undertaking required by subsection (1)(b) of this section shall be an unlimited general obligation of the director but shall not be required to be secured and may be accepted without reference to financial ability to make repayment.

(3) Determinations and authorizations of payments under this section shall be made in the manner specified in Section 99 of this Act.

SECTION 98. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless a corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification if it determines:

(1) The director is entitled to mandatory indemnification under Section 96 of this Act, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or

(2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he met the standard of conduct set forth in Section 95 of this Act or was adjudged liable as described in subsection (4) of Section 95 of this Act, but if he was adjudged so liable his indemnification shall be limited to reasonable expenses incurred.

SECTION 99. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall not indemnify a director under Section 95 of this Act unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in Section 95 of this Act.

(2) The determination shall be made:

(a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) If a quorum cannot be obtained under subsection (2)(a) of this section, by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two (2) or more directors not at the time parties to the proceeding;

(c) By special legal counsel:

1. Selected by the board of directors or its committee in the manner prescribed in subsection (2)(a) and (b) of this section; or

2. If a quorum of the board of directors cannot be obtained under subsection (2)(a) of this section and a committee cannot be designated under subsection (2)(b) of this section, selected by majority vote of the full board of directors (in which selection directors who are parties may participate); or

(d) By the shareholders, but shares owned by or voted under the control of directors who are at the time parties to the proceeding shall not be voted on the determination.

(3) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (2)(c) of this section to select counsel.

SECTION 100. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless a corporation's articles of incorporation provide otherwise:

(1) An officer of the corporation who is not a director shall be entitled to mandatory indemnification under Section 96 of this Act, and is entitled to apply for court-ordered indemnification under Section 98 of this Act, in each case to the same extent as a director;

(2) The corporation may indemnify and advance expenses under Sections 94 to 102 of this Act to an officer, employe, or agent of the corporation who is not a director to the same extent as to a director; and

(3) A corporation may also indemnify and advance expenses to an officer, employe, or agent who is not a director to the extent, consistent with public policy, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

SECTION 101. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employe, or agent of the corporation, or who, while a director, officer, employe or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employe, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employe benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employe, or agent, whether or not the corporation would have power to indemnify him against the same liability under Section 95 or 96 of this Act.

SECTION 102. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The indemnification and advancement of expenses provided by, or granted pursuant to, Sections 94 to 102 of this Act shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

(2) Sections 94 to 102 of this Act shall not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with his appearance as a witness at a proceeding at a time when he has not been made a named defendant or responded to the proceeding.

SECTION 103. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation shall be determined as of the effective date of the amendment.

(2) A shareholder of the corporation shall not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

SECTION 104. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state;

(4) To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding;

(5) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name; or

(6) To make any other change expressly permitted by this Act to be made without shareholder action.

SECTION 105. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may propose one (1) or more amendments to the articles of incorporation for submission to the shareholders.

(2) For the amendment to be adopted:

(a) The board of directors shall recommend the amendment to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the amendment; and

(b) The shareholders entitled to vote on the amendment shall approve the amendment as provided in subsection (5) of this section.

(3) The board of directors may condition its submission of the proposed amendment on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholder's meeting in accordance with Section 53 of this Act. The notice of meeting shall also state that the purpose, or one (1) of this purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(5) Unless this Act, the articles of incorporation, or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or a vote by voting groups, the amendment to be adopted shall be approved by:

(a) A majority of the votes entitled to be cast on the amendment by any voting group with respect to which the amendment would create dissenters' rights; and

(b) The votes required by Sections 61 and 62 of this Act by every other voting group entitled to vote on the amendment.

SECTION 106. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The holders of the outstanding shares of a class shall be entitled to vote as a separate voting group (if shareholder voting is otherwise required by this Act) on a proposed amendment if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of the class;

(b) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(c) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(d) Change the designation, rights, preferences, or limitations of all or part of the shares of the class;

(e) Change the shares of all or part of the class into a different number of shares of the same class;

(f) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(g) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class;

(h) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(i) Cancel or otherwise affect rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one (1) or more of the ways described in subsection (1) of this section, the shares of that series shall be entitled to vote as a separate voting group on the proposed amendment.

(3) If a proposed amendment that entitles two (2) or more series of shares to vote as separate voting groups under this section would affect those two (2) or more series in the same or a substantially similar way, the shares of all the series so affected shall vote together as a single voting group on the proposed amendment.

(4) A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

SECTION 107. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If a corporation has not yet issued shares, its incorporators or board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation.

SECTION 108. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A corporation amending its articles of incorporation shall deliver to the secretary of state for filing articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment adopted;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;

(4) The date of each amendment's adoption;

(5) If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(6) If an amendment was approved by the shareholders:

(a) The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting; and

(b) Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.

SECTION 109. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder action.

(2) The restatement may include one (1) or more amendments to the articles. If the restatement includes an amendment requiring shareholder approval, it shall be adopted as provided in Section 105 of this Act.

(3) If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.

(4) A corporation restating its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(a) Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement; or

(b) If the restatement contains an amendment to the articles requiring shareholder approval, the information required by Section 108 of this Act.

(5) Restated articles of incorporation supersede the original articles of incorporation and all amendments to them when the restated articles of incorporation become effective pursuant to Section 4 of this Act.

(6) The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (4) of this section.

SECTION 110. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of incorporation after amendment contain only provisions required or permitted by Section 16 of this Act.

(2) The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment approved by the court;

(c) The date of the court's order or decree approving the articles of amendment;

(d) The title of the reorganization proceeding in which the order or decree was entered; and

(e) A statement that the court had jurisdiction of the proceeding under federal statute.

(3) Shareholders of a corporation undergoing reorganization shall not have dissenters' rights except as and to the extent provided in the reorganization plan.

(4) This section shall not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

SECTION 111. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

An amendment to articles of incorporation shall not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

SECTION 112. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

(a) The articles of incorporation or this Act reserve this power exclusively to the shareholders in whole or part; or

(b) The shareholders in amending or repealing a particular bylaw provide expressly that the board of directors may not amend or repeal that bylaw.

(2) A corporation's shareholders may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.

SECTION 113. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A bylaw that fixes a greater quorum or voting requirement for the board of directors may be amended or repealed:

(a) If originally adopted by the shareholders, only by the shareholders; or

(b) If originally adopted by the board of directors, either by the shareholders or by the board of directors.

(2) A bylaw adopted or amended by the shareholders that fixes a greater quorum or voting requirement for the board of directors may provide that it may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3) Action by the board of directors under subsection (1)(b) of this section to adopt or amend a bylaw that changes the quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effective or proposed to be adopted, whichever is greater.

SECTION 114. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders (if required by Section 116 of this Act) approve a plan of merger.

(2) The plan of merger shall set forth:

(a) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of the surviving corporation; and

(b) Other provisions relating to the merger.

SECTION 115. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may acquire all of the outstanding shares of one (1) or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by Section 116 of this Act) approve the exchange.

(2) The plan of exchange shall set forth:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation;

(b) The terms and conditions of the exchange; and

(c) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

(3) The plan of exchange may set forth other provisions relating to the exchange.

(4) This section shall not limit the power of a corporation to acquire all or part of the shares of one (1) or more classes or series of another corporation through a voluntary exchange or otherwise.

SECTION 116. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (7) of this section) or share exchange for approval by its shareholders.

(2) For a plan of merger or share exchange to be approved:

(a) The board of directors shall recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(b) The shareholders entitled to vote shall approve the plan.

(3) The board of directors may condition its submission of the proposed merger or share exchange on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of

the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(5) Unless this Act, the articles of incorporation, or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or vote by voting groups, the plan of merger or share exchange to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be case on the plan by that voting group.

(6) Separate voting by voting groups shall be required:

(a) On a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under Section 106 of this Act; and

(b) On a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(7) Action by the shareholders of the surviving corporation on a plan of merger shall not be required if:

(a) The articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in Section 104 of this Act) from its articles before the merger;

(b) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(c) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger) will not exceed by more than twenty percent (20%) the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(d) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of participating shares outstanding immediately before the merger.

(8) As used in subsection (7) of this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(9) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

SECTION 117. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A parent corporation owning at least ninety percent (90%) of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.

(2) The board of directors of the parent shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or part.

(3) The parent shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

(4) The parent shall not deliver articles of merger to the secretary of state for filing until at least thirty (30) days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.

(5) Articles of merger under this section shall not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in Section 104 of this Act).

SECTION 118. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing articles of merger or share exchange setting forth:

(a) The plan of merger or share exchange;

(b) If shareholder approval was not required, a statement to that effect; and

(c) If approval of the shareholders of one (1) or more corporations party to the merger or share exchange was required:

1. The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and

2. Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(2) A merger or share exchange shall take effect upon the effective date of the articles of merger or share exchange.

SECTION 119. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) When a merger takes effect:

(a) Every other corporation party to the merger shall merge into the surviving corporation and the separate existence of every corporation except the surviving corporation shall cease;

(b) The title to all real estate and other property owned by each corporation party to the merger shall be vested in the surviving corporation without reversion or impairment;

(c) The surviving corporation shall have all liabilities of each corporation party to the merger;

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;

(e) The articles of incorporation of the surviving corporation shall be amended to the extent provided in the plan of merger; and

(f) The shares of each corporation party to the merger that are to be converted into shares, obligations,

or other securities of the surviving or any other corporation or into cash or other property shall be converted, and the former holders of the shares shall be entitled only to the rights provided in the articles of merger or to their rights under Sections 123 to 136 of this Act.

(2) When a share exchange takes effect, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange or to their rights under Sections 123 to 136 of this Act.

SECTION 120. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more foreign corporations may merge or enter into a share exchange with one (1) or more domestic corporations if:

(a) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(b) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;

(c) The foreign corporation complies with Section 118 of this Act if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and

(d) Each domestic corporation complies with the applicable provisions of Sections 114 to 117 of this Act and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with Section 118 of this Act.

(2) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange shall be deemed:

(a) To appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under Sections 123 to 136 of this Act; and

(c) To have agreed, to the extent required by Section 200 of the Kentucky Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise, as if the transaction has not taken place.

(3) This section shall not limit the power of a foreign corporation to acquire all or part of the shares of one (1) or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

SECTION 121. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

(a) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business;

(b) Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of its property whether or not in the usual and regular course of business; or

(c) Transfer any or all of its property to a corporation all the shares of which are owned by the corporation.

(2) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (1) of this section shall not be required.

SECTION 122. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property (with or without the good will), otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and its shareholders approve the proposed transaction.

(2) For a transaction to be authorized:

(a) The board of directors shall recommend the proposed transaction to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction; and

(b) The shareholders entitled to vote shall approve the transaction.

(3) The board of directors may condition its submission of the proposed transaction on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and contain or be accompanied by a description of the transaction.

(5) Unless the articles of incorporation or the board of directors (acting pursuant to subsection (3) of this section) require a greater vote or a vote by voting groups, the transaction to be authorized shall be approved by a majority of all the votes entitled to be cast on the transaction.

(6) After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned (subject to any contractual rights) without further shareholder action.

(7) A transaction that constitutes a distribution is governed by Section 48 of this Act and not by this section.

SECTION 123. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

As used in Sections 124 to 136 of this Act:

(1) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(2) "Dissenter" means a shareholder who is entitled to dissent from corporate action under Section 124 of this Act and who exercises that right when and in the manner required by Sections 126 to 134 of this Act.

(3) "Fair value," with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable. In any transaction subject to the requirements of KRS 271A.397 or exempted by KRS 271A.398(2), "fair value" shall be at least an amount required to be paid under KRS 271A.398(2) in order to be exempt from the requirements of KRS 271A.397.

(4) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(5) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(6) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

SECTION 124. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party:

1. If shareholder approval is required for the merger by Section 116 of this Act or the articles of incorporation and the shareholder is entitled to vote on the merger; or

2. If the corporation is a subsidiary that is merged with its parent under Section 117 of this Act;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled vote on the plan;

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;

(d) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;

2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

4. Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under Section 36 of this Act;

(e) Any transaction subject to the requirements of KRS 271A.397 or exempted by KRS 271A.398(2); or

(f) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

SECTION 125. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in his name only if he shall dissent with respect to all shares beneficially owned by any one (1) person and notify the corporation in writing of the name and address of each person on whose behalf he asserts dissenters' rights. The rights of a partial dissenter under this subsection shall be determined as if the shares as to which he dissents and his other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on his behalf only if:

(a) He submits to the corporation the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights; and

(b) He does so with respect to all shares of which he is the beneficial shareholder or over which he has power to direct the vote.

SECTION 126. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this chapter and the corporation shall undertake to provide a copy of this chapter to any shareholder entitled to vote at the shareholders' meeting upon request of that shareholder.

(2) If corporate action creating dissenters' rights under Section 124 of this Act is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in Section 128 of this Act.

SECTION 127. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights:

(a) Shall deliver to the corporation before the vote is taken written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Shall not vote his shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) of this section shall not be entitled to payment for his shares under this chapter.

SECTION 128. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If proposed corporate action creating dissenters' rights under Section 124 of this Act is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who satisfied the requirements of Section 127 of this Act.

(2) The dissenters' notice shall be sent no later than ten (10) days after the date the proposed corporate action was authorized by the shareholders, or, if no shareholder authorization was obtained, by the board of directors, and shall:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than thirty (30), nor more than sixty (60) days after the date the notice provided in subsection (1) of this section is delivered; and

(e) Be accompanied by a copy of Sections 123 to 136 of this Act.

SECTION 129. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder who is sent a dissenters' notice described in Section 128 of this Act shall demand payment, certify whether he acquired beneficial ownership of the shares before the date required to be set forth in the dissenters' notice pursuant to subsection (2)(c) of Section 128 of this Act,, and deposit his certificates in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits his share certificates under subsection (1) of this section shall retain all other rights of a shareholder until these rights are cancelled or modified by the taking of the proposed corporate action.

(3) A shareholder who does not demand payment or deposit his share certificates where required, each by the date set in the dissenters' notice, shall not be entitled to payment for his shares under Sections 123 to 136 of this Act.

SECTION 130. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The corporation may restrict the transfer of uncertificated shares from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under Section 132 of this Act.

(2) The person for whom dissenters' rights are asserted as to uncertificated shares shall retain all other rights of a shareholder until these rights are cancelled or modified by the taking of the proposed corporate action.

SECTION 131. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 133 of this Act, as soon as the proposed corporate action is taken, or upon receipt of a payment demand, the corporation shall pay each dissenter who complied with Section 129 of this Act the amount the corporation estimates to be the fair value of his shares, plus accrued interest.

(2) The payment shall be accompanied by:

(a) The corporation's balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any;

(b) A statement of the corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated; and

(d) A statement of the dissenter's right to demand payment under Section 134 of this Act.

SECTION 132. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporation does not take the proposed action within sixty (60) days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

(2) If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it shall send a new dissenters' notice under Section 128 of this Act and repeat the payment demand procedure.

SECTION 133. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may elect to withhold payment required by Section 131 of this Act from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenters' notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action.

(2) To the extent the corporation elects to withhold payment under subsection (1) of this section, after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under Section 134 of this Act.

SECTION 134. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissenter may notify the corporation in writing of his own estimate of the fair value of his shares and amount of interest due, and demand payment of his estimate (less any payment under Section 131 of this Act), or reject the corporation's offer under Section 133 of this Act and demand payment of the fair value of his shares and interest due, if:

(a) The dissenter believes that the amount paid under Section 131 of this Act or offered under Section 133 of this Act is less than the fair value of his shares or that the interest due is incorrectly calculated;

(b) The corporation fails to make payment under Section 131 of this Act within sixty (60) days after the date set for demanding payment; or

(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within sixty (60) days after the date set for demanding payment.

(2) A dissenter waives his right to demand payment under this section unless he shall notify the corporation of his demand in writing under subsection (1) of this section within thirty (30) days after the corporation made or offered payment for his shares.

SECTION 135. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If a demand for payment under Section 134 of this Act remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty (60) days period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The corporation shall commence the proceeding in the circuit court of the county where a corporation's principal office (or, if none in this state, its registered office) is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign corporation was located.

(3) The corporation shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) of this section shall be plenary and exclusive. The court may appoint one (1) or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The dissenters shall be entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding shall be entitled to judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the corporation elected to withhold payment under Section 133 of this Act.

SECTION 136. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The court in an appraisal proceeding commenced under Section 135 of this Act shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under Section 134 of this Act.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the corporation and in favor of any or all dissenters if the court finds the corporation did not substantially comply with the requirements of Sections 126 to 134 of this Act; or

(b) Against either the corporation or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by Sections 123 to 136 of this Act.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited.

SECTION 137. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth:

(1) The name of the corporation;

(2) The date of its incorporation;

(3) Either:

(a) That none of the corporation's shares has been issued; or

(b) That the corporation has not commenced business;

(4) That no debt of the corporation remains unpaid;

(5) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and

(6) That a majority of the incorporators or initial directors authorized the dissolution.

SECTION 138. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation's board of directors may propose dissolution for submission to the shareholders.

(2) For a proposal to dissolve to be adopted:

(a) The board of directors shall recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

(b) The shareholders entitled to vote shall approve the proposal to dissolve as provided in subsection (5)

of this section.

(3) The board of directors may condition its submission of the proposal for dissolution on any basis.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with Section 53 of this Act. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(5) Unless the articles of incorporation or the board of directors (acting pursuant to subsection (3)) of this section require a greater vote or a vote by voting groups, the proposal to dissolve to be adopted shall be approved by a majority of all votes entitled to be cast on that proposal.

SECTION 139. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing an original and three (3) exact or conformed copies of articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized;

(c) If dissolution was approved by the shareholders:

1. The number of votes entitled to be cast on the proposal to dissolve; and

2. Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval; and

(d) If voting by voting groups was required, the information required by subsection (1)(c) of this section shall be separately provided for each voting group entitled to vote separately on the plan to dissolve.

(2) The secretary of state shall immediately forward one (1) of the exact or conformed copies of the articles of dissolution to the commissioner of revenue.

(3) A corporation shall be dissolved upon the effective date of its articles of dissolution.

SECTION 140. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation may revoke its dissolution within one hundred twenty (120) days of its effective date.

(2) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a) The name of the corporation;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was authorized;

(d) If the corporation's board of directors (or incorporators) revoked the dissolution, a statement to that effect;

(e) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f) If shareholder action was required to revoke the dissolution, the information required by subsection (1)(c) or (1)(d) of Section 139 of this Act.

(4) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(5) When the revocation of dissolution is effective, it shall relate back to and take effect as of the effective date of the dissolution and the corporation shall resume carrying on its business as if dissolution had never occurred.

SECTION 141. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation shall continue its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its shareholders;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its shareholders according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a corporation shall not:

(a) Transfer title to the corporation's property;

(b) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(c) Subject its directors or officers to standards of conduct different from those prescribed in Sections 68 to 102 of this Act;

(d) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection; resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;

(e) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the corporation; or

(h) Alter the obligations and responsibilities of the corporation as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns.

SECTION 142. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(2) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice shall:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty (120) days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved corporation shall be barred:

(a) If a claimant who was given written notice under subsection (2) of this section does not deliver the claim to the dissolved corporation by the deadline;

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days from the effective date of the rejection notice.

(4) For purposes of this section, "claim" shall not include a contingent liability, a claim based on an event occurring after the effective date of dissolution or any liability to the Commonwealth or the United States for any state or federal tax liability.

SECTION 143. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice shall:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office (or, if none in this state, its registered office) is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commended within two (2) years after the publication of the notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two (2) years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under Section 142 of this Act;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of his pro rata share of the claim or the corporate assets distributed to him in liquidation, whichever

is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to him.

SECTION 144. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 145 of this Act to administratively dissolve a corporation if:

(1) The corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The corporation does not notify the secretary of state within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(4) The corporation's period of duration stated in its articles of incorporation expires.

SECTION 145. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 144 of this Act for dissolving a corporation, he shall serve the corporation with written notice of his determination, by mailing such notice by first class mail to the corporation at its registered office.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days from the date on which the notice was mailed, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 141 of this Act and notify claimants under Sections 142 and 143 of this Act.

(4) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

SECTION 146. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation administratively dissolved under Section 145 of this Act may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of Section 26 of this Act; and

(d) Contain a certificate from the revenue cabinet reciting that all taxes owed by the corporation have been paid.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its business as if the administrative dissolution had never occurred.

SECTION 147. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation with a written notice that explains the reason or reasons for denial by mailing such notice by first class mail to the corporation at its registered office.

(2) The corporation may appeal the denial of reinstatement to the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is or was last located within thirty (30) days after service of the notice of denial is perfected. The corporation may appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

(3) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 148. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The circuit court may dissolve a corporation:

(1) In a proceeding by the attorney general if it is established that:

(a) The corporation obtained its articles of incorporation through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(c) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

SECTION 149. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Venue for a proceeding by the attorney general to dissolve a corporation shall lie in Franklin County.

Venue for a proceeding brought by any other party named in Section 148 of this Act shall lie in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

(2) It shall not be necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

SECTION 150. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A court in a judicial proceeding brought to dissolve a corporation may appoint one (1) or more receivers to wind up and liquidate, or one (1) or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian shall have exclusive jurisdiction over the corporation and all of its property wherever located.

(2) The court may appoint an individual or a domestic or foreign corporation (authorized to transact business in this state) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver:

1. May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

2. May sue and defend in his own name as receiver of the corporation in all courts of this state; and

(b) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and his counsel from the assets of the corporation or proceeds from the sale of assets.

SECTION 151. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in Section 148 of this Act exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with Section 141 of this Act and the notification of claimants in accordance with Sections 142 and 143 of this Act.

SECTION 152. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the state treasurer or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the state treasurer or other appropriate state official shall pay him or his representative that amount.

SECTION 153. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any proceeding;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employes or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; and

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive.

SECTION 154. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) A foreign corporation is liable for a civil penalty of two dollars ($2.00) for each day, but not to exceed

a total of five hundred dollars ($500) for each year, it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain a certificate of authority shall not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

SECTION 155. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 158 of this Act;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 156. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:

(a) Its corporate name;

(b) The period of its duration; or

(c) The state or country of its incorporation.

(2) The requirements of Section 155 for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 157. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this Act.

(2) A foreign corporation with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this Act shall be subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(3) This Act shall not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

SECTION 158. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporate name of a foreign corporation does not satisfy the requirements of Section 26 of this Act, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or

(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the corporate name (including a fictitious name) of a foreign corporation shall be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Sections 27 or 28 of this Act;

(c) The fictitious name of another foreign corporation authorized to transact business in this state;

(d) The corporate name of a not for profit corporation incorporated or authorized to transact business in this state; or

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015.

(3) A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation (incorporated or authorized to transact business in this state) that is not distinguishable upon his records from the name applied for. The secretary of state shall authorized use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:

(a) Has merged with the other corporation;

(b) Has been formed by reorganization of the other corporation; or

(c) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(5) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of Section 26 of this Act, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of Section 26 of this Act and obtains an amended certificate of authority under Section 156 of this Act.

SECTION 159. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or not for profit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or foreign not for profit corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 160. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any foreign corporation for which he is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 161. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the secretary of state shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy to the foreign corporation at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the 31st day after the date on which the statement was filed.

SECTION 162. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation authorized to transact business in this state shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

(2) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed

to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this state under Section 163 of this Act; or

(c) Has had its certificate of authority revoked under Section 165 of this Act.

(3) Service is perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

SECTION 163. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state shall not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) That is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) A mailing address to which the secretary of state may mail a copy of any process served on him under subsection (2)(c) of this section; and

(e) A commitment to notify the secretary of state in the future of any change in its mailing address.

(3) After the withdrawal of the corporation is effective, service of process on the secretary of state under this section shall be service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (2) of this section.

SECTION 164. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 165 of this Act to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The foreign corporation is without a registered agent or registered office in this state for sixty (60)

days or more;

(3) The foreign corporation does not inform the secretary of state under Sections 160 and 161 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation or discontinuance;

(4) An incorporator, director, officer or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(5) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

SECTION 165. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 164 of this Act for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination by mailing the notice by first class mail to the corporation at its registered office.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after the mailing of the notice, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) The authority of a foreign corporation to transact business in this state shall cease on the date shown on the certificate revoking its certificate of authority.

(4) The secretary of state's revocation of a foreign corporation's certificate of authority shall be considered to appoint the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection shall be service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority shall not terminate the authority of the registered agent of the corporation.

SECTION 166. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after service of the certificate of revocation. The foreign corporation may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

(2) The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 167. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) Resolutions adopted by its board of directors creating one (1) or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(d) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three (3) years;

(e) All written communications to shareholders generally within the past three (3) years, including the financial statements furnished for the past three (3) years under Section 171 of this Act;

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its most recent annual report delivered to the secretary of state under Section 173 of this Act.

SECTION 168. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in subsection (5) of Section 167 of this Act if he gives the corporation written notice of his demand at least five (5) business days before the date on which he wishes to inspect and copy.

(2) A shareholder of a corporation shall be entitled to inspect and copy during regular business hours at a reasonable location specified by the corporation any of the following records of the corporation if the shareholder meets the requirements of subsection (3) of this section and gives the corporation written notice of his demand at least five (5) business days before the date on which he wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (1) of this section;

(b) Accounting records of the corporation; and

(c) The record of shareholders.

(3) A shareholder may inspect and copy the records described in subsection (b) of this section only if:

(a) His demand is made in good faith and for a proper purpose;

(b) He describes with reasonable particularity his purpose and the records he desires to inspect; and

(c) The records are directly connected with his purpose.

(4) The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

(5) This section shall not affect:

(a) The right of a shareholder to inspect records under Section 56 of this Act or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant;

(b) The power of a court, independently of this Act, to compel the production of corporate records for examination.

(6) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on his behalf.

SECTION 169. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A shareholder's agent or attorney shall have the same inspection and copying rights as the shareholder he represents.

(2) The right to copy records under Section 168 of this Act shall include, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(3) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production or reproduction of the records.

(4) The corporation may comply with a shareholder's demand to inspect the record of shareholders under subsection (2)(c) of Section 168 of this Act by providing him with a list of its shareholders that was compiled no earlier than the date of the shareholder's demand.

SECTION 170. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) If the corporation does not allow a shareholder who complies with subsection (1) of Section 168 of this Act to inspect and copy any records required by that subsection to be available for inspection, the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is located may summarily order inspection and copying of records demanded at the corporation's expense upon application of the shareholder.

(2) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with subsections (2) and (3) of Section 168 of this Act may apply to the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's costs (including reasonable counsel fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

SECTION 171. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Upon the written request of any shareholder or holder of voting trust certificates for shares of a corporation the corporation shall mail to such shareholder or holder of voting trust certificates its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

SECTION 172. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

If a corporation indemnifies or advances expenses to a director under Sections 95 to 98 of this Act in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

SECTION 173. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its directors and principal officers;

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

(3) The first annual report shall be delivered to the secretary of state between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the secretary of state between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction.

Section 174. KRS 96A.020 is amended to read as follows:

(1) A transit authority may be created and established under the provisions of this chapter by proceedings or joint proceedings, and the name thereof shall be "Transit Authority of . . . . . ." If established by a city alone, or by a county alone, the name shall be completed by identification of the city or county. If created and established by joint proceedings, the name may be completed by inserting words generally identifying the area intended to be served, in such manner as the public bodies may determine by concert or agreement in their joint proceedings. Such transit authority shall constitute an agency and instrumentality for accomplishing essential governmental functions of the public body or public bodies creating and establishing the same, and shall be a political subdivision and a public body corporate, with power to contract and be contracted with, to sue and be sued, to establish, alter and enforce rules and regulations in furtherance of the purposes of its creation, to adopt, use and alter a corporate seal, and to have and exercise, generally, all of the powers of private corporations, as enumerated in *Section 23 of this Act* [~~KRS 271A.020~~], except to the extent the same may be inconsistent with this chapter. An authority shall be authorized to promote and develop mass transportation in its transit area and adjoining areas, including acquisition, operation and extension of existing mass transit systems; and an authority shall have and may exercise such powers as may be necessary or desirable to carry out such purposes. Subject to proof of public convenience and necessity as required by KRS Chapter 281 it may provide service outside its transit area and its adjoining areas.

(2) Subsequent to the creation and establishment of a transit authority, one (1) or more additional public bodies may be permitted to join therein, in such manner and subject to such conditions as may be prescribed by the board of the authority with the concurrence and approval of all public bodies which have theretofore participated in the establishment or previous enlargement of the authority.

Section 175. KRS 155.120 is amended to read as follows:

(1) Articles of incorporation may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative

vote of two-thirds (2/3) of the votes to which the stockholders are entitled and two-thirds (2/3) of the votes to which the members are entitled; Provided, That no amendment of the articles of incorporation which is inconsistent with the general purposes expressed herein or which authorizes any additional class of capital stock to be issued, shall be made.

(2) Within thirty (30) days after any meeting at which amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer and a majority of the directors, setting forth such amendment and the due adoption thereof, shall be submitted to the secretary of state, as provided in KRS *Chapter 271A* [~~271A.310~~].

Section 176. KRS 271A.398 is amended to read as follows:

(1) For purposes of subsection (2) of this section:

(a) "Announcement date" means the first general public announcement of the proposal or intention to make a proposal of the business combination or its first communication generally to shareholders of the corporation, whichever is earlier;

(b) "Determination date" means the date on which an interested shareholder first became an interested shareholder; and

(c) "Valuation date" means:

1. For a business combination voted upon by shareholders, the latter of the day prior to the date of the shareholders vote or the date twenty (20) days prior to the consummation of the business combination; and

2. For a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) The vote required by KRS 271A.397 does not apply to a business combination if each of the following conditions is met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of common stock in such business combination is at least equal to the highest of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder for any shares of common stock of the same class or series acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher; or

3. The price per share equal to the market value per share of common stock of the same class or series determined pursuant to subparagraph 2. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of common stock of the same class or series acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of common stock of the same class or series on the first day in such two-year period on which the interested shareholder acquired any shares of common stock.

(b) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of a particular class or series of stock:

1. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of such class of stock acquired by it:

a. Within the two-year period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The highest preferential amount per share to which the holders of shares of such class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation; or

3. The market value per share of such class of stock on the announcement date or on the determination date, whichever is higher; or

4. The price per share equal to the market value per share of such class of stock determined pursuant to subparagraph 3. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of any class of voting stock acquired by it within the two-year period immediately prior to the announcement date, over

b. The market value per share of the same class of voting stock on the first day in such two-year period on which the interested shareholder acquired any shares of the same class of voting stock.

(c) In making any price calculation under this section, appropriate adjustments shall be made to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock. The consideration to be received by holders of any class or series of outstanding stock is to be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for such class of stock shall be either cash or the form used to acquire the largest number of shares of such class or series of stock previously acquired by it.

(d) 1. After the interested shareholder has become an interested shareholder and prior to the consummation of such business combination:

a. There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation;

b. There shall have been no reduction in the annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock; and an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock; and

c. The interested shareholder did not become the beneficial owner of any additional shares of stock of the corporation except as part of the transaction which resulted in such interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

2. The provisions of sub-subparagraphs a. and b. of subparagraph 1. do not apply if no interested shareholder or an affiliate or associate of the interested shareholder voted as a director of the corporation in a manner inconsistent with such sub-subparagraphs and the interested shareholder, within ten (10) days after any act or failure to act inconsistent with such sub-subparagraphs, notifies the board of directors of

the corporation in writing that the interested shareholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

(e) After the interested shareholder has become an interested shareholder, the interested shareholder may not have received the benefit, directly or indirectly, except proportionately as a shareholder, of any loans, advances, guarantees, pledges or other financial assistance provided by the corporation or any of its subsidiaries, whether in anticipation of or in connection with such business combination or otherwise.

(3) (a) Whether or not such business combinations are authorized or consummated in whole or in part after July 13, 1984 or after the interested shareholder became an interested shareholder, the requirements of KRS 271A.397 do not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates or associates, have been approved or exempted therefrom by resolution of the board of directors of the corporation:

1. Prior to two (2) months after July 13, 1984 or such earlier date as may be irrevocably established by resolution of the board of directors;

2. If involving transactions with a particular interested shareholder or its existing or future affiliates or associates, at any time prior to the time that the interested shareholder first became an interested shareholder; or

3. At any time if such business combination is approved by a majority of continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present.

(b) Unless by its terms a resolution adopted under this subsection is made irrevocable, it may be altered or repealed by the board of directors, but this shall not affect any business combinations that have been consummated, or are the subject of an existing agreement entered into, prior to the alteration or repeal.

(4) (a) Unless the articles of incorporation or bylaws of the corporation specifically provide otherwise, the requirements of KRS 271A.397 do not apply to business combinations of a corporation that, on July 13, 1984, had an existing interested shareholder, whether a business combination is with the existing shareholder or with any other person who becomes an interested shareholder, after July 13, 1984, or their present or future affiliates, unless, at any time after July 13, 1984, the board of directors of the corporation elects by resolution, adopted by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present, to be subject, in whole or in part, specifically, generally, or generally by types, as to specifically identified or unidentified interested shareholders, to the requirements of KRS 271A.397.

(b) The articles of incorporation or bylaws of the corporation may provide that if the board of directors adopts a resolution under paragraph (a) of this subsection, the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles of incorporation or the bylaws.

(c) An election under this subsection may be added to but may not be altered or repealed except by an amendment to the articles of incorporation adopted by a vote of shareholders meeting the requirements of subsection (5)(a)2. of this section.

(d) If a corporation elects under this subsection to be included within the provisions of KRS 271A.397 generally, without qualification or limitation, it shall file with the secretary of state articles of amendment including a copy of the resolution making the election and a statement describing the manner in which the resolution was adopted. The articles of amendment shall be executed in the manner required by *Section 108 of this Act* [~~KRS 271A.305~~].

(5) (a) Unless the articles of incorporation of the corporation provide otherwise, the requirements of KRS 271A.397 do not apply to any business combination of:

1. A corporation having fewer than five hundred (500) beneficial owners of its stock;

2. A corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation after the July 13, 1984, by a vote of at least eighty percent

(80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group and two-thirds of the votes entitled to be case by persons, if any, who are not interested shareholders of the corporation, voting together as a single voting group, expressly electing not to be governed by KRS 271A.397; or

3. An investment company registered under the federal Investment Company Act of 1940, as amended; a bank or a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended; a savings and loan holding company as defined in the federal Savings and Loan Holding Company Amendments of 1967, as amended; and a domestic insurer as defined under KRS 304.1-070.

(b) For purposes of subparagraph 1. of this subsection, all shareholders of a corporation who have executed an agreement to which the corporation is an executing party governing the purchase and sale of stock of the corporation or a voting trust agreement governing stock of the corporation shall be considered a single beneficial owner of the stock covered by the agreement.

Section 177. KRS 272.311 is amended to read as follows:

(1) A plan of merger or consolidation shall be adopted in the following manner:

(a) The board of each merging or consolidating association shall adopt a resolution approving the proposed plan, and directing that it be submitted to a vote at a meeting of the association members, which may be at either an annual or a special meeting. Written or printed notice of the meeting shall be given to each member of the association entitled to vote at such meeting. The notice shall state that the proposed plan of merger or consolidation will be considered and acted upon at the meeting, and a copy or a summary of the plan of merger or plan of consolidation shall be included in or inclosed with such notice. Each notice shall be mailed by first-class mail at such time that not less than ten (10) full days shall elapse between the date of mailing the notice and the date of the meeting, and shall be mailed to each member of the association at his last known address as it appears on the records of the association. The proposed plan shall be adopted by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting at such meeting;

(b) By the affirmative vote of not less than two-thirds (2/3) of its members, the board of directors of a parent association may approve on behalf of a wholly-owned subsidiary association a plan of merger or consolidation; and

(c) After the approval by the members, and at any time prior to the filing of articles of merger or articles of consolidation, the merger or consolidation may be abandoned pursuant to provisions set forth in the plan of merger or consolidation.

(2) Upon the approval of the members, articles of merger or articles of consolidation shall be executed, filed and recorded as provided in *Section 118 of this Act* [~~KRS 271A.370~~]. A copy of the articles of merger or articles of consolidation endorsed by the secretary of state, with the fact and time of recording in his office, shall be filed with the dean of the college of agriculture of the university of Kentucky and with the commissioner, department of agriculture.

(3) The articles of merger or the articles of consolidation shall set forth:

(a) The plan of merger or the plan of consolidation; and

(b) A statement setting forth the date of the meeting of the members of each association at which the plan was adopted; that the meeting was duly called and that a quorum was present; and that such plan received an affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members.

(4) The time when the merger or consolidation is effected is determined by the provisions of *Section 119 of this Act* [~~KRS 271A.380~~].

(5) When the merger or consolidation has been effected:

(a) The several associations, parties to the plan of merger or plan of consolidation, shall be a single association which, in the case of a merger, shall be the association designated as the surviving association, and, in the case of a consolidation, shall be the new association;

(b) The separate existence of all associations which are parties to the plan of merger or plan of consolidation, except the surviving association or new association, shall cease;

(c) The surviving association or new association shall have all the rights, privileges, franchises, immunities, and powers and shall be subject to all the duties and liabilities of an association organized under KRS 272.101 to 272.341;

(d) The surviving association or new association shall, to the extent consistent with its articles of incorporation as established or changed by the merger or consolidation, possess all the rights, privileges, immunities, and franchises, of both public and private nature, of each of the merging or consolidating associations; and all property, real, personal and mixed; and all debts due on any account; and all choses in action; and every other interest, of or belonging to or due to each of the associations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such surviving association or new association without further act or deed; and the title to any real estate, wheresoever situated, or any interest therein, shall vest in the surviving association or new association and shall not revert or be in any way impaired by reason of the merger or consolidation;

(e) The surviving association or new association shall be responsible for all the liabilities, contracts or other obligations and penalties of each of the associations so merged or consolidated; and any claim existing or action or proceeding, civil or criminal, pending by or against any of the associations may be prosecuted as if the merger or consolidation had not taken place, or the surviving association or new association may be substituted in its place; and any judgments rendered against any of the merged or consolidated associations may be enforced against the surviving association or new association. Neither the rights of creditors nor any liens upon the property of any merged or consolidated association shall be impaired by the merger or consolidation; and

(f) The articles of incorporation of a surviving association shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger. The articles of consolidation of a new association shall be deemed to be its articles of incorporation.

Section 178. KRS 272.335 is amended to read as follows:

A foreign association may be authorized to transact business in this state, upon compliance with the provisions of *Section 155 of this Act* [~~KRS 271A.525~~].

Section 179. KRS 273.171 is amended to read as follows:

Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal and alter it at pleasure, provided, however, that the presence or absence of a corporate seal on or from a writing shall neither add to nor detract from the legality thereof nor affect its validity in any manner or respect.

(4) [~~Subject to the provisions of KRS 273.383,~~] To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employes other than its officers and directors and otherwise assist its employes,

officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by KRS 273.161 to 273.390 in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, who may be directors or members, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or bylaws, or resolution adopted after notice to the members entitled to vote.

(15) To pay pensions and establish pension plans or pension trusts for any or all of its directors, officers and employes.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Section 180. KRS 273.363 is amended to read as follows:

The provisions of *Sections 162 and 163 of this Act* [~~KRS 271A.565 and 271A.585~~] shall apply to foreign corporations.

Section 181. KRS 274.015 is amended to read as follows:

(1) One or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the secretary of state. Such articles of incorporation shall meet the requirements of KRS Chapter 271A, and in addition to the information required by *Section 16 of this Act* [~~KRS 271A.270~~], such articles shall contain

the following:

(a) The designation of the profession or professions to be practiced through the professional service corporation.

(b) The names and residence addresses of all the original shareholders of the professional service corporation.

(c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.

(2) Any professional service corporation formed under the provisions of this chapter shall, except as this chapter may otherwise provide, have the same powers, authority, duties and liability as corporations formed under KRS Chapter 271A.

Section 182. KRS 287.103 is amended to read as follows:

(1) It is hereby declared to be the policy of the Commonwealth of Kentucky that the investment of funds, by a bank chartered under the laws of Kentucky or a national banking association having its principal office in Kentucky, in real and personal property as now or hereafter provided by this chapter be recognized as a normal, proper, necessary, and integral part of the legitimate business of such state or national banks.

(2) Upon approval of the commissioner in the case of a state bank, or the proper federal supervisory authority in the case of a national bank, the institution may invest its funds in real or personal property and/or improvements on such real property when all or a portion of the improvements are for use as its home office or for branch offices so long as the said real estate is used for carrying on its legitimate business as permitted by section 192 of the Constitution of the state of Kentucky.

(3) All property owned and held by a state or national bank under this section shall be deemed to be property that is proper and necessary for carrying out its legitimate business within the meaning of KRS *Chapter 271A* [~~271A.705~~] or any [~~other~~] section of the Kentucky Revised Statutes relating to escheat.

Section 183. KRS 290.185 is amended to read as follows:

(1) A credit union has a special obligation of confidentiality to its members; therefore, *any contrary* [~~the~~] provisions of KRS *Chapter 271A notwithstanding,* [~~271A.260 shall be limited to the extent that~~] a credit union shall be obligated to provide a shareholder only names and addresses of its member shareholders.

(2) No officer or director of a credit union or employe of the department shall release any information contained in the report of examination, except so far as necessary in the performance of his official duties as provided by law.

(3) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(4) Every official report concerning a credit union and every report of an examination shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department or credit union is a party. Such reports shall not be made public except when required in proper legal proceedings.

Section 184. KRS 299.030 is amended to read as follows:

(1) Persons desiring to form an organization for the purpose of transacting the business of life or casualty insurance, or both, upon the assessment or cooperative plan, may associate together and effect an organization as prescribed in this section.

(2) Any number of persons not less than thirteen (13) may associate to establish such an insurance company.

(3) In addition to the general requirements for all corporations, the articles of incorporation shall specify

the class of insurance the company proposes to transact; and on what business plan or principle; the number and amount of agreements for insurance, if any; and such other facts as may be necessary to explain and make manifest the object and purposes of the corporation. The words "insurance company" shall be a part of the title of every such corporation, and also the word "mutual."

(4) In addition to complying with the provisions of KRS *Chapter 271A* [~~271A.275~~], the incorporators shall file a certified copy of the articles of incorporation in the office of the commissioner.

Section 185. KRS 304.3-230 is amended to read as follows:

(1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the secretary of state as its attorney to receive service of lawful process issued against it in this state:

(a) Foreign or alien insurers;

(b) Domestic reciprocal insurers;

(c) Domestic Lloyd's insurers;

(d) Qualified self-insurers.

(2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.

(3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to industrial insureds as defined in KRS 304.11-020, shall be made upon the secretary of state, as provided in KRS 304.11-040.

(4) Service of lawful process against authorized domestic insurers shall be had pursuant to *Section 32 of this Act* [~~KRS 271A.070~~].

(5) Whenever the secretary of state is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and shall serve by certified mail, return receipt requested, a true copy of the summons with an attested copy of plaintiff's complaint to the secretary of state. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Kentucky Rules of Civil Procedure.

(6) The secretary of state shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.

(7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.

(8) The sheriff serving the summons upon the secretary of state shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

Section 186. KRS 304.22-030 is amended to read as follows:

A title insurer shall have corporate powers as set forth in *Section 23 of this Act* [~~KRS 271A.020~~], and in addition shall have power to:

(1) Examine titles to real estate and chattels real and personal, and to procure and furnish information relative thereto.

(2) Make and guarantee the correctness of searches of all instruments, liens, or changes affecting the titles set out in subsection (1) of this section.

(3) Make insurance of every kind pertaining to or connected with titles to real estate and chattels real and personal; and to make and issue such policies and other instruments as may be required to insure owners of real estate and chattels real and personal, mortgages, and others having an interest therein, from loss by reason of liens, encumbrances, and defective titles.

(4) Act as trustee under mortgages or deeds of trust executed to secure payment of bonds where the title to the real estate and chattels real and personal included in the mortgage or deed of trust has been examined and approved by the insurer; to act as agent in fact for investors in, and the holders of mortgages or deeds of trust or bonds, notes or other evidences of indebtedness mentioned in Subtitle 7, in the purchase, sale and servicing thereof.

(5) To acquire and hold, subject to [~~KRS 271A.705~~] and Subtitle 7, such real estate and chattels real and personal as may be necessary or convenient for the conduct of its business, including real estate and chattels real and personal taken in satisfaction of debts due the insurer or by subrogation under its guaranties or insurance, and to sell, lease, pledge, mortgage and convey such property.

Section 187. KRS 304.24-500 is amended to read as follows:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Such a domestic insurer will be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such a transfer such an insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in his discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or merger pursuant to *Section 120 of this Act* [~~KRS 271A.385(4)~~], or any other lawful method, shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

Section 188. KRS 362.095 is amended to read as follows:

(1) A foreign limited partnership may be authorized to do business in this state when, and only when, it has:

(a) Filed a certified copy of its articles of partnership or a certified copy of its certificate of limited partnership and all existing amendments in the office of the secretary of state, which may omit signature pages other than those signed by a general partner. It shall thereafter file a certified copy of subsequent amendments to its articles or certificate in the office of the secretary of state, provided that no amendment indicating merely a change in limited partners need be filed. A limited partnership shall pay to the secretary of state an original filing fee of forty dollars ($40) and a recording fee of twenty dollars ($20) for recording the articles or certificate of partnership and accompanying amendments, and shall pay the same recording fee for recording subsequent amendments; and

(b) Designating a process agent, which shall have the same legal effect and be subject to the same requirements as a process agent for a foreign corporation under *Section 159 of this Act* [~~KRS 271A.555~~].

(2) The name of a foreign limited partnership shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name of the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, or any assumed name filed with the secretary of state pursuant to KRS 365.015, except that this provision shall not apply if the foreign limited partnership applying for a certificate of authority files with the secretary of state any one (1) of the following:

(a) A resolution adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter, or any assumed name filed with the secretary of state;

(b) The written consent of such other corporation or holder of a reserved or registered name or assumed name holder to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or

(c) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right to such foreign limited partnership to the use of such name in this state.

(3) A limited partnership registering to do business in this state under subsection (1) of this section shall not be required to list the names of each limited partner.

Section 189. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; the real name of a domestic limited partnership is that name given to it in its agreement of limited partnership and stated in its certificate of limited partnership filed pursuant to KRS 362.420(1)(a); the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under *Section 158 of this Act* [~~KRS 271A.530~~].

(2) (a) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name or any foreign limited partnership name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate or partnership name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate or partnership name;

(e) The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the secretary of state shall receive a fee of twenty dollars ($20) for filing each certificate.

Section 190. KRS 393.025 is amended to read as follows:

When property is paid [~~or delivered to the department~~] under this chapter or *Section 152 of this Act* [~~KRS 271A.510~~], the owner is not entitled to receive income or other increments accruing thereafter.

SECTION 191. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall apply to any corporation formed under the laws of this state unless the statutes relating to a corporation of that kind either are inconsistent with this chapter or state that the provisions of this chapter do not apply to it.

(2) Subject to the provisions of subsection (1) of this section, corporations may be organized under this chapter for any lawful purpose or purposes.

SECTION 192. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

A foreign corporation authorized to transact business in this state on the effective date of this Act shall be subject to Sections 1 to 194 of this Act but shall not be required to obtain a new certificate of authority to transact business under Sections 1 to 194 of this Act.

SECTION 193. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the repeal of a statute by this Act does not affect:

(a) The operation of the statute or any action taken under it before its repeal;

(b) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(c) Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal; or

(d) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(2) If a penalty or punishment imposed for violation of a statute repealed by this Act is reduced by this Act, the penalty or punishment if not already imposed shall be imposed in accordance with this Act.

SECTION 194. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) On the effective date of this Act and thereafter, Sections 1 to 194 of this Act shall apply to all domestic corporations in existence on the effective date that were incorporated under the present statutes or any prior law and those incorporated on or after the effective date to the extent provided in Section 191 of this Act.

(2) Before the effective date of this Act, the provisions of Sections 1 to 194 of this Act shall not apply to any domestic corporation except in accordance with the following:

(a) The corporation's board of directors may adopt a resolution electing to have the provisions of Sections 1 to 194 of this Act (except for Section 3, Section 15, Sections 17 to 22 and Section 173) apply to the corporation.

(b) The resolution shall specify a date (after July 15, 1988 and before January 1, 1989) on and after which the provisions will apply to the corporation.

(c) The resolution shall be filed in the office of the Secretary of State before the date specified in subsection (2)(b) of this section.

(3) The provisions of Sections 1 to 194 of this Act (except for Section 3, Section 15, Sections 17 to 22 and Section 173) apply to each domestic corporation that complies with all the conditions prescribed in subsection (2) of this section. In addition, such a corporation shall continue to comply with the requirements of KRS 271A.396, 271A.397, 271A.398, 271A.399, 271A.615, 271A.620, 271A.625, 271A.630, and 271A.635 until January 1, 1989, but it is not subject to the provisions of KRS 271A.010 to 271A.395; KRS 271A.400 to 271A.610; and KRS 271A.640 to 271A.675.

Section 195. KRS 273.161 is amended to read as follows:

As used in KRS 273.163 to 273.387, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.163 to 273.387, except a foreign corporation;

(2) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;

(3) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

(4) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

(7) "Board of directors" means the group of persons vested with the management of the affairs of the

corporation irrespective of the name by which group is designated;

(8) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs; and

(9) "Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(10) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation.

(11) "Individual" includes the estate of an incompetent or deceased individual.

(12) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(13) "Person" includes individual and entity.

Section 196. KRS 273.177 is amended to read as follows:

(1) The corporate name *shall* [~~must~~] include the word "corporation" or "incorporated" or the abbreviation "Inc.," or the word "company" or the abbreviation "Co.[~~,~~]"; but if the word "company" or the abbreviation "Co." is used, it may not be immediately preceded by the word "and" or the abbreviation "&." The provisions of this subsection shall not affect the right of any corporation existing on June 13, 1968, to continue the use of its name.

(2) *Except as authorized by subsection (3) of this section, a corporate name shall be distinguishable upon the records of the secretary of state from:*

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Section 11 of this Act.

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015. [~~The corporate name shall not be the same as, nor deceptively similar to, the name of any other domestic corporation or of any foreign corporation authorized to do business in this state or any name which has been registered or reserved as provided by law, or the name of any foreign limited partnership authorized to do business in Kentucky, or any assumed name registered with the secretary of state pursuant to KRS 365.015, unless the written consent of such other domestic or foreign corporation, reserved or registered name holder, foreign limited partnership, or assumed name holder to the adoption of its name or a deceptively similar name has been given and one or more words are added to make such name distinguishable from such other name.~~]

(3) *A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:*

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state. The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.

(4) The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.

(5) This Act shall not control the use of fictitious names.

(6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence; but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued. [~~The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.~~]

Section 197. KRS 273.227 is amended to read as follows:

(1) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(2) A duly appointed officer may appoint one (1) or more officers or assistant officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall delegate to one (1) of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(4) The same individual may simultaneously hold more than one (1) office in a corporation.

(5) Each officer [~~The officers of a corporation shall consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom~~] shall be elected or appointed at such time and in such manner and for such terms not exceeding three (3) years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. [~~Any two (2) of the offices of vice president, secretary, and treasurer may be combined in one person.~~]

(6)[~~(2)~~] The articles of incorporation or the bylaws may provide that any one (1) or more officers of the corporation shall be ex officio members of the board of directors.

[~~(3) The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.~~]

Section 198. KRS 273.243 is amended to read as follows:

One (1) or more persons may *act as the incorporator or incorporators of* [~~incorporate~~] a corporation by [~~signing and~~] delivering articles of incorporation [~~in triplicate~~] to the secretary of state *for filing.*

Section 199. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation;

(b) [~~The period of duration, which may be perpetual;~~

~~(c)~~] The purpose or purposes for which the corporation is organized;

(c)[~~(d)~~] Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation;

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(e) The mailing address of the corporation's principal office;

(f) [~~(e) The address, including street and number, if any, of its registered office in this state, and the name of its initial registered agent at such address;~~

~~(f) The address including street and number, if any, of the corporation's principal office;~~

~~(g)~~] The number of directors constituting the initial board of directors, and the names and *mailing* addresses of the persons who are to serve as the initial directors; and

(g)[~~(h)~~] The name and *mailing* address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS 273.163 to 273.387.

(3) *Unless its articles of incorporation provide otherwise, every corporation shall be presumed to have perpetual duration and succession in its corporate name.*

(4) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, *when* [~~whenever~~] a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

Section 200. KRS 273.253 is amended to read as follows:

Upon the *filing of articles* [~~issuance of the certificate~~] of incorporation *with the secretary of state*, the corporate existence shall begin, and such *filing* [~~certificate of incorporation~~] shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under KRS 273.161 to 273.390, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Section 201. KRS 273.257 is amended to read as follows:

(1) After the *filing of articles* [~~issuance of the certificate~~] of incorporation, an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three (3) days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

(2) A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three (3) days' notice, for such purposes as shall be stated in the notice of the meeting.

Section 202. KRS 273.267 is amended to read as follows:

A corporation amending its articles of incorporation shall deliver to the secretary of state for filing articles of amendment setting [~~The articles of amendment shall be executed in triplicate by the corporation by its~~

~~president or a vice-president and by its secretary or an assistant secretary and shall set~~] forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) If there are members entitled to vote thereon, (a) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

Section 203. KRS 273.273 is amended to read as follows:

(1) A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation and directing that they be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting.

(b) Written notice setting forth the proposed restated articles or a summary of the provisions thereof shall be given to each member entitled to vote thereon, within the time and in the manner provided in KRS 273.161 to 273.390 for the giving of notice of meetings of members. If the meeting be an annual meeting, the proposed restated articles or a summary of the provisions thereof may be included in the notice of such annual meeting.

(c) At such meeting a vote of the members entitled to vote thereon shall be taken on the proposed restated articles, which shall be adopted upon receiving the affirmative vote of a majority of the members entitled to vote thereon present at such meeting or represented by proxy.

(d) If there are no members, or no members entitled to vote thereon, the proposed restated articles shall be adopted at a meeting of the board of directors upon receiving the affirmative vote of a majority of the directors in office.

(2) Upon such approval, restated articles of incorporation shall be *delivered to the secretary of state for filing* [~~executed in triplicate by the corporation, by its president or vice president and by its secretary or assistant secretary~~] and shall set forth:

(a) The name of the corporation.

(b) [~~The period of its duration.~~

~~(c)~~] The purpose or purposes which the corporation is authorized to pursue.

(c)[~~(d)~~] Any other provisions, not inconsistent with law, which are then set forth in the articles of incorporation as theretofore amended, except that it shall not be necessary to set forth in the restated articles of incorporation the registered office of the corporation, its registered agent, its directors or its incorporators.

(3) The restated articles of incorporation shall state that they correctly set forth the provisions of the articles of incorporation as theretofore amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments thereto.

[~~(4) Triplicate originals of the restated articles of incorporation shall be delivered to the secretary of~~

~~state. If the secretary of state finds that such restated articles conform to law, he shall, when all fees have been paid as in KRS 273.161 to 273.390 prescribed:~~

~~(a) Endorse on each of such triplicate originals the word "Filed" and the month, day and year of the filing thereof.~~

~~(b) File one (1) of such triplicate originals in his office.~~

~~(c) Issue a restated certificate of incorporation to which he shall affix the other duplicate original.~~

~~(5) The restated certificate of incorporation, together with the remaining original restated articles of incorporation shall be returned by the secretary of state to the corporation or its representative. One (1) original shall then be filed with and recorded by the county clerk in the county in which the registered office of the corporation is located, and the other shall be retained by the corporation.~~]

Section 204. KRS 273.287 is amended to read as follows:

[~~(1)~~] Upon such approval, articles of merger or articles of consolidation shall be *delivered to the secretary of state for filing* [~~executed in triplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary,~~] and shall set forth:

(1)[~~(a)~~] The plan of merger or the plan of consolidation;

(2)[~~(b)~~] If the members of any merging or consolidating corporation are entitled to vote thereon, then as to each such corporation:

(a)[~~1.~~] A statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast; or

(b)[~~2.~~] A statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto; and

(c) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

[~~(2) Triplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall:~~

~~(a) Endorse on each of such triplicate originals the word "Filed," and the month, day and year of the filing thereof;~~

~~(b) File one (1) of such triplicate originals in his office; and~~

~~(c) Issue a certificate of merger or a certificate of consolidation.~~

~~(3) The certificate of merger or certificate of consolidation, together with the remaining originals of the articles of merger or articles of consolidation, shall be returned to the surviving or new corporation, as the case may be, or its representative. One (1) original shall then be filed with and recorded by the county clerk in the county in which the registered office of the corporation is located, and the other shall be retained by the surviving or new corporation.~~]

Section 205. KRS 273.291 is amended to read as follows:

[~~(1) Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.~~

~~(2)~~] When *a* [~~such~~]] merger or consolidation has been effected:

(1)[~~(a)~~] The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2)[~~(b)~~] The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3)[~~(c)~~] Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under KRS 273.161 to 273.390.

(4)[~~(d)~~] Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5)[~~(e)~~] Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6)[~~(f)~~] In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under KRS 273.161 to 273.390 shall be deemed to be the articles of incorporation of the new corporation.

Section 206. KRS 273.310 is amended to read as follows:

A corporation may, at any time prior to the *filing of articles of dissolution with* [~~issuance of a certificate of dissolution by~~] the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in KRS 273.161 to 273.390 for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) If there are no members, or no members entitled to vote thereon, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(3) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members entitled to vote thereon, the corporation may thereupon again conduct its affairs.

Section 207. KRS 273.313 is amended to read as follows:

If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provisions shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed, or distributed in accordance with the provisions of KRS 273.161 to 273.390, articles of dissolution shall be *delivered to the secretary of state for filing and* [~~executed in triplicate by the corporation by its president or a vice president, and by its secretary or an assistant secretary, which statement~~] shall set forth:

(1) The name of the corporation.

(2) If there are members entitled to vote thereon:

(a) A statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast; or

(b) A statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(3) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) A copy of the plan of distribution, if any, as adopted by the corporation, or a statement that no plan was so adopted.

(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of KRS 273.161 to 273.390.

(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

(8) Upon the filing of articles of dissolution with the secretary of state, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided by law.

Section 208. KRS 273.323 is amended to read as follows:

The secretary of state, on or before the last day of December of each year, *may* [~~shall~~] certify to the attorney general the names of all corporations which have given cause for dissolution as provided in KRS 273.161 to 273.390, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general may file an action in the name of the state against such corporation for its dissolution. Every such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall file its annual report, or shall appoint or maintain a registered agent as provided in KRS 273.161 to 273.390, or shall file with the secretary of state the required statement of change of registered agent, such fact shall be forthwith certified by the secretary of state to the attorney general and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall file its annual report, or shall appoint or maintain a registered agent as provided in KRS 273.161 to 273.390, or shall file with the secretary of state the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

Section 209. KRS 273.357 is amended to read as follows:

The dissolution of a corporation either (1) by the *filing of articles of dissolution with* [~~issuance of a certificate of dissolution by~~] the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in KRS 273.161 to 273.390, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two (2) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.

SECTION 210. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

(2) This Act shall require or permit filing the document in the office of the secretary of state.

(3) The document shall contain the information required by this Act. It may contain other information as well.

(4) The document shall be typewritten or printed.

(5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals; and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.

(6) The documents shall be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may contain the corporate seal; an attestation by the secretary or an assistant secretary; an acknowledgement, verification, or proof; or a statement regarding the preparer of the document which complies with KRS 382.335.

(8) If the secretary of state has prescribed a mandatory form for the document under Section 211 of this Act, the document shall be in or on the prescribed form.

(9) The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, and any penalty required by this Act or other law to be collected by the office of the secretary of state.

(10) One (1) of the exact or conformed copies shall thereafter be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.

SECTION 211. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall prescribe and furnish on request forms for:

(a) An application for a certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation application for a certificate of withdrawal;

(d) A change of registered office or registered agent;

(e) The annual report.

Use of these forms shall be mandatory.

(2) The secretary of state shall prescribe and furnish on request forms for other documents required or permitted to be filed by this Act. Use of these forms shall be mandatory.

SECTION 212. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section and Section 213(3) of this Act, a document accepted for filing shall be effective at the time of filing on the date it is filed, as evidenced by the secretary of state's date and time of endorsement on the original document; or at the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date, and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall become effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth (90th) day after the date it is filed.

(3) A document filed in accordance with subsections (1) and (2) of this section shall be effective regardless of a failure to file the document with the county clerk pursuant to Section 210(10) of this Act.

SECTION 213. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign corporation may correct a document filed by a secretary of state if the document contains an incorrect statement or was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document shall be corrected:

(b) By preparing articles of correction that:

1. Describe the document, including its filing date, or attaching a copy of it to the articles;

2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(c) By delivering the articles to the secretary of state for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

SECTION 214. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If a document delivered to the office of the secretary of state for filing satisfies the requirements of Section 210 of this Act, the secretary of state shall file it.

(2) The secretary of state shall file a document by stamping or otherwise endorsing "Filed," together with his name and official title and the date and time of receipt, on both the original and the document copies and

on the receipt for the filing fee. After filing a document, except as provided in Sections 224 and 238 of this Act, the secretary of state shall deliver the document copies, with the filing fee receipt, or acknowledgement of receipt if no fee is required, attached, to the domestic or foreign corporation or its representative.

(3) If the secretary of state refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(4) The secretary of state's duty to file documents under this section shall be ministerial. His filing or refusal to file a document shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 215. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state refuses to file a document delivered to his office for filing, the domestic or foreign corporation may appeal the refusal to the Franklin County Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of his refusal to file.

(2) The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 216. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

A certificate attached to a copy of the document filed by the secretary of state, bearing his signature, which may be in facsimile, and the seal of this state, shall be conclusive evidence that the original document is on file with the secretary of state.

SECTION 217. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(2) A certificate of existence or authorization shall set forth:

(a) The domestic corporation's corporate name or the foreign corporation's corporate name used in this state;

(b) That the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to transact business in this state;

(c) That all fees, taxes, and penalties owed to this state have been paid, if payment is reflected in the records of the secretary of state and nonpayment affects the existence or authorization of the domestic or foreign corporation;

(d) That its most recent annual report required by Section 50 of this Act has been delivered to the secretary of state;

(e) That articles of dissolution have not been filed; and

(f) Other facts of record in the office of the secretary of state that may be requested by the applicant.

(3) Subject to any qualification state in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this state.

SECTION 218. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

A person shall be guilty of a misdemeanor if he signs a document he knows is false in any material respect with intent that the document be delivered to the secretary of state for filing, and shall be subject to a fine not to exceed one hundred dollars ($100).

SECTION 219. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The secretary of state shall have the power reasonably necessary to perform the duties required of him by this Act.

SECTION 220. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a nonrenewable period of one hundred twenty (120) days.

(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

SECTION 221. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by Section 235 of this Act, if the name is distinguishable upon the records of the secretary of state from the corporate names that are not available under KRS 273.177.

(2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by Section 235 of this Act, by delivering to the secretary of state for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by Section 235 of this Act, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for the successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application, when filed, shall renew the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this Act or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

SECTION 222. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

Each corporation shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or nonprofit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 223. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the corporation;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any corporation for which he is the registered agent by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 224. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign his agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(2) After filing the statement, the secretary of state shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the corporation at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued, if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 225. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A corporation's registered agent shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(2) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service shall be perfected under this subsection at the earliest of:

(a) The date the corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) Other methods of service of process on a corporation may also be used.

SECTION 226. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

Each officer shall have the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

SECTION 227. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed with the secretary of state.

(2) The secretary of state's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in proceedings by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

SECTION 228. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 229 of this Act to administratively dissolve a corporation if:

(1) The corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The corporation does not notify the secretary of state within sixty (60) days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(4) The corporation's period of duration stated in its articles of incorporation expires.

SECTION 229. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 228 of this Act for dissolving a corporation, he shall serve the corporation with written notice of his determination, by mailing such notice by first class mail to the corporation at its registered office.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days from the date on which the notice was mailed, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) A corporation administratively dissolved shall continue its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

SECTION 230. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A corporation administratively dissolved under Section 228 of this Act may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the corporation's name satisfies the requirements of KRS 273.177.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its business as if the administrative dissolution had never occurred.

SECTION 231. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation with a written notice that explains the reason or reasons for denial, by mailing such notice by first class mail to the corporation at its registered office.

(2) The corporation may appeal the denial of reinstatement to the circuit court of the county where the corporation's principal office, or, if none in this state, its registered office, is or was last located within thirty (30) days after service of the notice of denial is perfected. The corporation shall appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

(3) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 232. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 235 of this Act;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the secretary of state or other official having custody of corporate records in the state or county under whose law it is incorporated.

SECTION 233. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(a) A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:

(a) Its corporate name;

(b) The period of its duration; or

(c) The state or country of its incorporation.

(2) The requirements of Section 232 of this Act for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 234. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign corporation to which it is issued to transact business in this state, subject to the right of the state to revoke the certificate as provided in this Act.

(2) A foreign corporation with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this Act shall be subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(3) This state shall not regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

SECTION 235. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If the corporate name of a foreign corporation does not satisfy the requirements of KRS 273.177, the foreign corporation, in order to obtain or maintain a certificate of authority to transact business in this state:

(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or

(b) May use a fictitious name to transact business in this state, if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(2) Except as authorized by subsection (3) of this section, the corporate name, including a fictitious name, of a foreign corporation shall be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under Sections 220 and 221 of this Act;

(c) The fictitious name of another foreign corporation authorized to transact business in this state;

(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; or

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015.

(3) A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation, incorporated or authorized to transact business in this state, that is not distinguishable upon his records from the name applied for. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) If a foreign corporation authorized to transact business in this state changes its corporate name to one (1) that does not satisfy the requirements of KRS 273.177, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of KRS 273.177 and obtains an amended certificate of authority under Section 233 of this Act.

SECTION 236. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or foreign nonprofit corporation authorized to transact business in this state whose business office is identical with the registered office.

SECTION 237. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any foreign corporation for which he is the registered agent by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

SECTION 238. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the secretary of state shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy to the foreign corporation at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued, if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 239. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign corporation authorized to transact business in this state shall be the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

(2) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this state under Section 240 of this Act; or

(c) Has had its certificate of authority revoked under Section 242 of this Act.

(3) Service shall be perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign corporation receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) Other methods of service of process on a corporation may also be used.

SECTION 240. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application shall set forth:

(a) The name of the foreign corporation and the name of the state or county under whose law it is incorporated;

(b) That is not transacting business in this state and that it surrenders its authority to transact business

in this state;

(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) A mailing address to which the secretary of state may mail a copy of any process served on him under paragraph (c); and

(e) A commitment to notify the secretary of state in the future of any change in its mailing address.

(3) After the withdrawal of the corporation is effective, service of process on the secretary of state under this section shall constitute service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (2) of this section.

SECTION 241. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The secretary of state may commence a proceeding under Section 242 of this Act to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not file its annual report to the secretary of state within sixty (60) days after it is due;

(2) The foreign corporation is without a registered agent or registered office in this state for sixty (60) days or more;

(3) The foreign corporation does not inform the secretary of state under Section 237 or 238 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation or discontinuance;

(4) An incorporator, director, officer or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(5) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

SECTION 242. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state determines that one (1) or more grounds exist under Section 241 of this Act for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination by mailing the notice by first class mail to the corporation at its registered office.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after the mailing of the notice, the secretary of state may revoke the foreign corporation's certification of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) The authority of a foreign corporation to transact business in this state shall cease on the date shown on the certificate revoking its certificate of authority.

(4) The secretary of state's revocation of a foreign corporation's certificate of authority shall appoint the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection shall constitute service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign

corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority shall not terminate the authority of the registered agent of the corporation.

SECTION 243. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the Franklin circuit court within thirty (30) days after service of the certificate of revocation. The foreign corporation shall appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

(2) The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 244. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its directors and principal officers;

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

(3) The first annual report shall be delivered to the secretary of state between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the secretary of state between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction.

SECTION 245. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interest of the corporation.

(2) A director shall discharge his duties on an informed basis if he makes inquiry, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsections (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the effective date of this Act.

Section 246. KRS 273.320 is amended to read as follows:

A corporation may be dissolved involuntarily by a decree of the circuit court in an action filed by the attorney general when it is established that:

(1) The corporation is guilty of abuse or misuse of its corporate powers, privileges or franchises, or the corporation has become detrimental to the interest and welfare of the commonwealth of Kentucky or its citizens; or

(2) The corporation procured its articles of incorporation through fraud; or

(3) The corporation has failed for six (6) months to file its annual report as required by *Section 244 of this Act* [~~KRS 273.367~~]; or

(4) The corporation has failed for six (6) months to appoint and maintain a registered agent in this state; or

(5) The corporation has failed for six (6) months after change of its registered agent to file in the office of the secretary of state a statement of such change.

Section 247. This Act shall take effect January 1, 1989.

Section 248. The following KRS sections are repealed:

271A.010 Definitions.

271A.015 Application and purposes.

271A.020 General powers.

271A.026 Indemnification of directors.

271A.030 Right of corporation to acquire and dispose of its own shares.

271A.035 Defense of ultra vires.

271A.040 Corporate name.

271A.045 Reserved name.

271A.050 Registered name.

271A.055 Renewal of registered name.

271A.060 Registered office and registered agent.

271A.065 Change of registered office or registered agent.

271A.070 Service of process on corporation.

271A.075 Authorized shares.

271A.080 Issuances of shares of preferred or special classes in series.

271A.085 Subscriptions for shares.

271A.090 Consideration for shares.

271A.095 Payment for shares.

271A.100 Stock rights and options.

271A.105 Determination of amount of stated capital.

271A.110 Expenses of organization, reorganization and financing.

271A.115 Certificates representing shares.

271A.120 Fractional shares.

271A.125 Liability of Subscribers and shareholders.

271A.130 Shareholders' preemptive rights.

271A.135 By-laws and other powers in emergency.

271A.140 Meetings of Shareholders.

271A.145 Notice of shareholders' meetings.

271A.150 Closing of transfer books and fixing record date.

271A.155 Voting record.

271A.160 Quorum of shareholders.

271A.165 Voting of shares.

271A.170 Voting trusts and agreements among shareholders.

271A.175 Board of directors.

271A.180 Number and election of directors.

271A.185 Classification of directors.

271A.190 Vacancies.

271A.195 Removal of directors.

271A.200 Quorum of directors.

271A.205 Director conflicts of interest.

271A.210 Executive and other committees.

271A.215 Directors' meetings — Conduct of meetings via telephone or similar communications equipment.

271A.220 Action by directors without a meeting.

271A.225 Dividends.

271A.230 Distributions from capital surplus.

271A.235 Loans to employes and directors.

271A.240 Liability of directors in certain cases.

271A.245 Provisions relating to actions by shareholders.

271A.250 Officers.

271A.255 Removal of officers.

271A.260 Books and records.

271A.265 Incorporators.

271A.270 Articles of incorporation.

271A.275 Filing of articles of incorporation.

271A.280 Effect of issuance of certificate of incorporation.

271A.285 Organization meeting of directors.

271A.290 Right to amend articles of incorporation.

271A.295 Amendment of articles.

271A.300 Class voting on amendments.

271A.305 Articles of amendment.

271A.310 Filing of articles of amendment.

271A.315 Effect of certificate of amendment.

271A.320 Restated articles of incorporation.

271A.325 Amendment of articles of incorporation in reorganization proceedings.

271A.330 Restriction on redemption or purchase of redeemable shares.

271A.335 Cancellation of redeemable shares by redemption or purchase.

271A.340 Cancellation of other reacquired shares.

271A.345 Reduction of stated capital in certain cases.

271A.350 Special provisions relating to surplus and reserves.

271A.355 Procedure for merger.

271A.360 Procedure for consolidation.

271A.365 Approval by shareholders.

271A.370 Articles of merger on consolidation.

271A.375 Merger of subsidiary corporation.

271A.380 Effect of merger or consolidation.

271A.385 Merger or consolidation of domestic and foreign corporations.

271A.390 Sale of assets in regular course of business and mortgage or pledge of assets.

271A.395 Sale of assets other than in regular course of business.

271A.400 Right of shareholders to dissent.

271A.405 Rights of dissenting shareholders.

271A.410 Voluntary dissolution by incorporations.

271A.415 Voluntary dissolution by consent of shareholders.

271A.420 Voluntary dissolution by act of corporation.

271A.425 Filing of statement of intent to dissolve.

271A.430 Effect of statement of intent to dissolve.

271A.435 Procedure after filing of statement of intent to dissolve.

271A.440 Revocation of voluntary dissolution proceedings by consent of shareholders.

271A.445 Revocation of voluntary dissolution proceedings by act of corporation.

271A.450 Filing of statement of revocation of voluntary dissolution proceedings.

271A.455 Effect of statement of revocation of voluntary dissolution proceedings.

271A.460 Articles of dissolution.

271A.465 Filing of articles of dissolution.

271A.470 Involuntary dissolution.

271A.475 Jurisdiction of court to liquidate assets and business of corporation.

271A.480 Procedure in liquidation of corporation by court.

271A.485 Qualifications of receivers.

271A.490 Filing of claims in liquidation proceedings.

271A.495 Discontinuance of liquidation proceedings.

271A.500 Decree of involuntary dissolution.

271A.505 Filing of decree of dissolution.

271A.510 Deposit with department of revenue of amount due certain shareholders.

271A.515 Survival of remedy after dissolution.

271A.520 Admission of foreign corporation.

271A.525 Powers of foreign corporation.

271A.530 Corporate name of foreign corporation.

271A.535 Change of name by foreign corporation.

271A.540 Application for certificate of authority.

271A.545 Filing of application for certificate of authority.

271A.550 Effect of certificate of authority.

271A.555 Registered office and registered agent of foreign corporation.

271A.560 Change of registered office or registered agent of foreign corporation.

271A.565 Service of process on foreign corporation.

271A.570 Amendment to articles of incorporation of foreign corporation.

271A.575 Merger of foreign corporation authorized to transact business in this state.

271A.580 Amended certificate of authority.

271A.585 Withdrawal of foreign corporation.

271A.590 Filing of application for withdrawal.

271A.595 Revocation of certificate of authority.

271A.600 Issuance of certificate of revocation.

271A.605 Application to corporations heretofore authorized to transact business in this state.

271A.610 Transacting business without certificate of authority.

271A.615 Annual report of domestic and foreign corporations — Reinstatement of certificate of incorporation.

271A.620 Filing of annual report of domestic and foreign corporations.

271A.625 Fees and charges to be collected by secretary of state.

271A.630 Fees for filing documents and issuing certificates.

271A.635 Miscellaneous charges.

271A.640 Penalties imposed upon corporations.

271A.645 Certificates and certified copies to be received in evidence.

271A.650 Forms to be furnished by Secretary of State.

271A.655 Greater voting requirements.

271A.660 Waiver of notice.

271A.665 Action by shareholders without a meeting.

271A.670 Unauthorized assumption of corporate powers.

271A.675 Application to existing corporations.

271A.680 Effect of repeal of prior acts.

271A.705 Limitation on business and holding of real estate; escheat.

273.181 Registered office — Agent for service of process.

273.183 Service of process on corporation.

273.251 Filing of articles — Certificate of incorporation.

273.271 Recording of articles of amendment — Certificate of amendment.

273.317 Filing of articles of dissolution.

273.360 Admission of foreign corporations.

273.363 Service of process on foreign corporation after withdrawal from state or in case of unauthorized doing of business in state.

273.367 Annual report of domestic and foreign corporations — Reinstatement of certificate of incorporation.

273.383 Limitations on business and holding of real estate — Escheat procedure.

The Committee on Judiciary-Criminal reported **HB 288** and **HB 328**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 288. AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one (1) person and the mouth or anus of another;

(2) "Forcible compulsion" means physical force *or threat of physical force, express or implied, which places* [~~that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing~~] a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped;

(3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses are not married to one another for purposes of this chapter if either or both spouses have filed a petition under KRS Chapter 403 and they are living apart;

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party; and

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight;

emission is not required.

HB 328. AN ACT relating to dangerous instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 500.080 is amended to read as follows:

As used in the Kentucky penal code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, article, [~~or~~] substance, *or bodily part or appendage, including but not limited to hands or feet* which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any weapon:

(a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(b) Any knife other than an ordinary pocket knife or hunting knife;

(c) Billy, nightstick, or club;

(d) Blackjack or slapjack;

(e) Nunchaku karate sticks;

(f) Shuriken or death star; or

(g) Artificial knuckles made from metal, plastic or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the corrections cabinet may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state or by any law, order, rule or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral; and

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

The Committee Amendment No. 1 to **HB 328** is as follows:

Amend printed copy of **HB 328**, on page 1, lines 1-21, to delete the same and to insert in lieu thereof:

"Section 1. KRS 508.010 is amended to read as follows:

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon, [~~or~~] a dangerous instrument, *or a bodily part or appendage, including but not limited to hands and feet*; or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B Felony."

And on page 2, lines 1-26, to delete same;

And on page 3, lines 1-23, to delete same;

The Committee on Judiciary-Criminal reported **HB 346** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 346, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No person shall knowingly make or cause to be made any key, for which notice of the prohibition against duplication thereof has been given either by impressing into the key the legend "Unlawful to duplicate this key" or by placing the notice "It is unlawful to duplicate this key without the permission of the university." upon the receipt for the key which is to be signed by the recipient of the key, for any building, laboratory, facility, room, or other lock of any college or university which is supported wholly, or in part, by the Commonwealth of Kentucky, contrary to any regulation respecting duplication of keys by the board of trustees of such college or university.

Section 2. KRS 164.990 is amended to read as follows:

(1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned.

(2) Any person who violates the provisions of KRS 164.980 shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

(3) Any person who violates Section 1 of this Act shall be guilty of a Class A misdemeanor.

Calendar

HB 176, HB 204, HB 302, HB 413, HB 175, HB 322, HB 386, HB 68 and **HJR 27** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 312, HB 65 and **HB 67** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 9** be passed.

On the roll call the vote was: Yeas 72, Nays 11. (See January 27, 1988 roll call on **HB 9** - Appendix A.)

HB 9 was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 9** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 55, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 55**. Agreed.

Representative Lear moved that **HB 55**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 18. (See January 27, 1988 roll call on **HB 55** - Appendix A.)

HB 55, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 55**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 6, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HCR 6**. Agreed.

Representative Gedling moved that **HCR 6**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 27, 1988 roll call on **HCR 6** - Appendix A.)

HCR 6, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HCR 6**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 45**:

HR 45. A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 45 was adopted by voice vote.

Pursuant to **HR 45**, the Speaker appointed the following committee to wait upon the Governor: Representative L. Clark, Chairman; Representatives Ark, Crupper, Gregory, Hatcher and Adams.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 503, by Representative Priddy: AN ACT relating to statutes of limitation.

HB 504, by Representative Nett: AN ACT relating to board of alderman officers.

HB 505, by Representatives Deskins and Overstreet: AN ACT relating to concealed deadly weapons.

HB 506, by Representatives Moberly and Blevins: AN ACT relating to hazardous waste and declaring an emergency.

HB 507, by Representative Moberly: AN ACT relating to the principal testing and internship program.

HB 508, by Representative Lundergan: AN ACT relating to regional jail authorities.

HB 509, by Representatives Kerr and Callahan: AN ACT relating to insurance.

HB 510, by Representatives Hancock and Rapier: AN ACT relating to retirement.

HB 511, by Representative Ackerson: AN ACT relating to telephones.

HB 512, by Representative Ackerson: AN ACT relating to plea bargaining in criminal cases.

HR 47, by Representative Crupper: A RESOLUTION saluting the Owen County Rural Electric Cooperative Corporation.

HCR 48, by Representatives O'Brien and McElroy: A CONCURRENT RESOLUTION relating to international trade.

Motions, Petitions and Communications (continued)

Representative White moved that **HB 329** be withdrawn. Agreed.

Representative K. Harper moved the rules be suspended for the purpose of recording votes. Agreed.

Representative K. Harper moved that he be recorded as voting "yea" on **HB 9** and **HB 55**. Agreed.

Representative Noe moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Noe moved the adoption of Legislative Citation No. 28. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Donna Parsons on your accomplishments while a student at Harlan High School and the University of Kentucky. Noteworthy are your years of participation in gymnastics and the many awards received. Your contributions to the Beta Club, National Honor Society and Fellowship of Christian Athletes. You have also excelled in the field of cheerleading. From your years in high school and the responsibility of being chosen captain to the honor of being a member of the Lady Cats squad and the Varsity squad at the University of Kentucky.

The House of Representatives joins Representative Roger Noe in commending you. (Sponsored by Representative Noe)

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 98**, Representative Hoover; **HB 196**, Representative Donnermeyer; **HB 228**, Representative Maggard; **HB 246**, Representatives Ballard, Bronger; **HB 248**, Representatives Ballard, Bronger; **HB 249**, Representatives Ballard, Bronger; **HB 288**, Representative Seum; **HB 307**, Representative Handy; **HB 349**, Representative Hoover; **HB 350**, Representative Hoover; **HB 351**, Representative Hoover; **HB 352**, Representative Hoover; **HB 353**, Representative Hoover; **HB 463**, Representative Heleringer; **HB 485**, Representative Heleringer; **HB 494**, Representative Meyer; **HB 496**, Representatives Ackerson, Blevins, M. Brown, Robinson.

Announcements

The Clerk announced the following meetings:

The Committee on Cities, January 28, 1988, 9:00 a.m.

Majority Caucus, January 28,1988, State Reception Room, upon Recess.

The Committee on Agriculture and Small Business, January 28,1988, 9:00 a.m., Room 103.

The Committee on Rules, Speaker's Office, upon adjournment.

The Committee Chairs, January 28, 1988, Speaker's Office, 11:00 a.m.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m., Wednesday, January 27, 1988. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Committee appointed to wait upon the Governor reported the Governor was ready to address the Joint Session.

The Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Brereton C. Jones, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Reverend J. Williamson Brown, Church of the Ascension Frankfort.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Brereton C. Jones introduced the Honorable Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky.

Governor Wilkinson addressed the Joint Session of the General Assembly as follows:

Governor Wallace G. Wilkinson

The Executive Budget Address

January 27, 1988

Lt. Governor Jones, Mr. Speaker, distinguished members of the general assembly, Mr. Chief Justice, members of the Supreme Court, honored guests.

Tonight I join you to fulfill my obligation to present the Commonwealth's budget for the next two years. It is a budget that hallmarks a new course for Kentucky.

The fact that I stand delivering this budget on time is testimony to the hard work and efforts of budget director Hable, his Deputies Ron Carson and Bill Hintze, the entire staff of the Governor's Office for Policy and Management, and Executive Director of Investment and Debt Management, Dr. Jim Ramsey.

All my life I've watched Kentucky struggle. I've watched as one Governor after another came to Frankfort with high hopes. We've seen those hopes dimmed by the fiscal realities of a state whose economic base is unable to support our needs. It is an economic base that is continuing to erode day by day, year by year. It's frustrating to watch. It's frustrating to know we can be better. To know we must be better.

Some of our own have given up. Kentucky will never come back, they say, because we've lost our will to fight. Others see the only way out in higher taxes. Higher taxes, they say, will solve our problems.

Both groups are wrong.

Kentuckians haven't lost their will to fight, we're just tired of fighting the same old battles. Kentuckians are tired of struggling. Tired of being behind, Tired of false hopes and empty promises.

We've taxed and taxed and we're still behind. Twenty years ago the sale tax was going to be the answer. And we're still behind. We added the severance tax in the 70's. And we're still behind. We increased the gasoline tax. And we're still behind. We've increased corporate taxes. And we're still behind.

I'm tired of being behind. Kentuckians are tired of being frustrated and they're tired of seeing Kentucky struggle.

We are at a crossroads in Kentucky. On the one hand we can choose the easy road. Easy answers. Easy explanations. Or we can choose the road less traveled and change Kentucky forever.

The old way promises more frustration.

The new way promises hope and new opportunities.

Our reward will be a strong, vibrant Kentucky. The Kentucky that all of us, who have been frustrated in the past, have dreamed about and worked for.

We can take the first steps by adopting the principles of the budget I am presenting tonight.

It was not an easy budget to prepare. But change is never easy. I'm not going to pretend that we can reach our ultimate goal without some sacrifices.

But it is a budget that is fair. It is a budget that reorders our priorities and directs our resources where they are needed the most. It is a budget that provides for the human needs of our people. That allows us to continue our efforts to reform education. That enables us to invest in our future. There are no frills, no luxuries. No conveniences. No extras.

Last week I talked with you about the state of the Commonwealth. I said that it isn't good. You generally agreed with that assessment.

Tonight I am recommending actions to set our priorities straight. I promised you a balanced, but lean budget for the next two years. I said that budget would be fair and would reflect new ways of doing business. I promised no new taxes. The budget I am proposing does all of those things.

This budget embraces the ideas for education and economic development that I've talked about for over 30 months in a straightforward manner.

It is no easy task that we in Kentucky give our new Governors to formulate and introduce a biennial Executive Budget of $14 billion in the first 50 days in office. To do so responsibly takes an enormous commitment of time, energy, and devotion. It is time I spent personally and it is time well spent.

My priorities for the budget are clear.

(1) To bring spending into line with revenue;

(2) To continue good programs without additional taxes; and

(3) To advance new programs and priorities within our existing resources.

That task can be accomplished. It needs to be accomplished for the people and future of Kentucky.

Almost immediately after I took the oath of office I was confronted with a major revenue shortfall in the current fiscal year. The experts I appointed to examine the revenue estimates gave me their professional judgment about them. Their conclusion was that we will be over $53 million short in the General Fund this year alone.

I will remind you that this latest reduction is in addition to three previous downward revisions totaling $250 million in the current biennium. We were following a vicious cycle of dashed hopes and repeated cuts spanning the entire decade and costing the General Fund over $1 billion.

We've balanced the budget for 1988. I have identified where the $53.7 million should come from to bring us back into balance and to ensure that vital services are not affected.

Because of the magnitude of the shortfall and the late date in the fiscal year at which time it was identified, certain actions were taken immediately.

1. Everything was put on the table for review. This is true of all agencies and all funds within the Executive Branch. My review did not spare any "sacred cows" of government and bureaucracy.

2. I directed that the adverse impact on programs and services be minimized and that all essential services be continued.

3. I froze expenditures for discretionary items for travel, for furniture and equipment, and for vehicles. I put a freeze on hiring.

4. I captured savings everywhere I could and not endanger ongoing services.

5. I redirected existing resources from over-funded and under-utilized programs to essential, ongoing programs. It did not seem fair to me that some agencies' programs should be hoarding surpluses at a time when other vital services were imperiled by repeated cutbacks.

6. I used the Budget Reduction Plan enacted by the 1986 General Assembly on a selective basis where it could be done responsibly. I did not and could not use it where the savings were merely illusory.

7. Finally, I sought to change the management philosophy of the Executive Branch to ensure that all Cabinets, Departments, and Agencies would work together in a year of common sacrifice to restore the integrity of the financial base of the Commonwealth.

You will be invited to review and asked to ratify the decisions embodied in this cutback order. I welcome your analysis and attention.

The specific actions taken to cope with the fiscal year 1988 revenue shortfall are as follows:

1. We have captured agency surpluses wherever we found them.

2. We have made the decision to remove the one percent General Fund contingency held by the agencies and universities.

3. We have examined agency funds and stripped the unbudgeted surpluses and carry forwards away.

4. We have avoided employee layoffs, but I am going to ask you to reexamine the legislation passed in 1986 as Senate Bill 340 that ties the hands of every manager in state government on personnel matters. Appropriate safeguards are essential, but this legislation is a straight jacket. You cannot administer a workforce of over 35,000 employees and not have the ability to make critical personnel decisions that any shopkeeper and business person knows are crucial to good, prudent management.

With these actions, we have begun to put our house in order. Essential programs have been neither damaged nor dismantled.

In the next two years we will continue to right ourselves fiscally. The official revenue estimates for the 1988-90 biennium call for General Fund revenues to total $3.263 billion in fiscal 1989 and $3.442 billion in fiscal 1990. These figures do not reflect robust growth by historic standards, but they are realistic and have been properly calculated.

We begin with virtually no surplus money in the new biennium. Moreover, we are spending General Funds at a current rate that exceeds our General Fund revenues by $140 million per year. This has got to stop and it will right now.

For fiscal year 1989 — the year commencing July 1 of 1988 General Fund appropriations will only grow at a rate of 0.6 percent, the lowest growth available in modern Kentucky history. This fact is not well understood by the public or the press. It has occurred because of the availability and subsequent expenditure of what once was a sizable surplus. It has been compounded by the addition of expensive programs to the state budget that have not been fully or properly funded. This too has got to stop.

What this means is simple. General Fund expenditure growth in 1988-90 will be minimal. It means we will have to supplant General Fund expenditures with other funds to the fullest extent we can just as you in the General Assembly did in 1984.

Understand one thing clearly, as we have redirected available dollars and made cuts, we are preserving existing services and funding new education and economic development initiatives. I will not abandon or dismantle the successes in education that were enacted in 1985 and 1986. We will continue to fund those priorities.

Because of the importance of education, especially basic education at the elementary and secondary level, I am recommending to you some new programs and new directions for spending our educational dollar.

The 1988-90 Executive budget charts a new direction for educational policy. For the first time, we are going to focus our resources at the areas of greatest need. To that end, I am recommending that we increase the Power Equalization program by $5 million in fiscal 1989 and another $10 million in fiscal 1990.

The proposed Education budget I am recommending includes over $12 million more in funds for the basic School Foundation program in fiscal year 1989 and over $42 million in new funds in fiscal year 1990. These amounts will allow salaries for school teachers to rise by 2 percent in 1989 and by 5 percent in 1990. In addition, current expenses will increase by over 3 percent in each year.

Although what goes on inside the classroom is the most important element in education there are continuing unmet needs with regard to the construction and renovation of classrooms and related facilities. The recommended Executive Budget includes support for an $80 million bond issue in fiscal 1990 to allow eligible school districts to move forward in meeting these classroom needs.

$20 million is set aside for new construction and expansion in vocational education including a new dormitory at the Kentucky School for the Blind.

We need to better focus vocational education in Kentucky. Once we have done that, these dollars will be targeted to the revitalization and modernization of existing programs and to the development of new high tech centers. The Advanced Technology Center in Bowling Green will be expanded. Other Technology Centers are planned for Northern Kentucky and Jefferson County. Expansions and renovations are also planned for vocational-technical schools in Ashland, Paintsville, Somerset, Hazard, and Madisonville.

The Executive Budget retains the class size reductions that are already in place. It continues free textbooks to school children in grades kindergarten through eighth grade. The longevity teacher pay program has been retained.

In order to retain these initiatives it is necessary to reorder our priorities in educational reform. I am recommending immediate termination of the $300 bonus program and two smaller bonus programs that are low on the list of legitimate education needs for a savings of $15 million a year. These funds have been redirected to the Power Equalization program and the Parent and Child Education program.

My budget will increase funding to the PACE program by $925,000 each fiscal year. This program will help break the cycle of family undereducation and underemployment that is so vicious in Kentucky. This program allows parents who lack a high school diploma and their preschool children to attend classes together in a joint remedial and preventive effort. This is an intensive program that can work to break the cycle of poverty and ignorance inherited by too many Kentuckians. It is long past time for this fundamental change in our focus.

I further recommend a $12 million expansion for new dropout prevention initiatives and a program directed specifically at the needs of Kentucky's lowest 48 performing counties.

We will initiate a program of Benchmark Schools during this biennium with $5 million per year and will commence planning for the school incentive program that will await full funding until the next biennium.

Funding is included at the current level for continued efforts in the campaign to erase illiteracy in our adult population in the Commonwealth. We will not retreat in this effort.

The highest priority in the Executive Budget is elementary and secondary education. We have got to be resourceful and find the necessary funds to continue and build upon the foundations for educational excellence. We have done so, even in these lean times, in this Executive Budget.

The best long-term solution to the problems of underfunding and inadequate resources in Kentucky is a sound, vital economy. I am asking for job creation tools in the Executive Budget. We must be able to intelligently and forcefully move forward without delay on a broad-based job creation program.

The Economic Development program advanced in the Executive Budget calls for a broad array of economic development tools.

I am asking you to approve $40 million in Economic Development Bonds and $10 million in the KDFA Loan Program for the upcoming biennium. There will be no giveaways. Instead we will demand accountability and full return on our investment.

Rural Kentucky, including our hundreds of small communities can only attract economic development when adequate clean water and wastewater treatment facilities are available. Kentucky's need for such infrastructure is immense.

This budget contains a major commitment to essential infrastructure development including direct state bond funds and matching funds to leverage federal dollars. The total commitment to Kentucky's rural infrastructure needs over the next biennium will be approximately $69 million to be administered as a state revolving loan fund in our Finance and Administration Cabinet. $11 million in bonds will be issued to provide the state's share, with a $58 million federal match.

Low interest monies will be made available to Kentucky's small cities and rural areas to provide essential infrastructure. But more importantly, state infrastructure funds will be limited to those projects where direct evidence of immediate or long-term economic development can be demonstrated.

I pledge to you that the state's limited cash resources invested in this program will be strictly applied to deserving economic development oriented projects. We will build and maintain our infrastructure to support our economic development.

A new $25 million State Infrastructure Program will be initiated and supported by revenue bonds, making some 95 million in total dollars available. Local funds will be matched to build water systems, repair dams and develop the community infrastructure that is an essential component of economic development.

One of Kentucky's greatest natural strengths is our central location and extensive navigable waterways. It is also one of our most neglected assets.

I will correct that with your support by recommending $2 million in fiscal year 1989 and $3 million in fiscal year 1990 to assist, promote, and develop local port authorities and river-related industries.

I am also recommending that the Louisville Waterfront Development Commission be funded for the first time ever in the Executive Budget. I am recommending line-item economic development projects in Owensboro for Green River Steel at $3 million and for downtown revitalization for $4.5 million. A $6.5 million appropriation is recommended to continue the Riverfront revitalization in Covington and $2 million is recommended for upgrading Bluegrass Airport in Lexington.

Job training is vital to keeping our good industries and attracting more of them. I have included the $16.8 million pledged to Ford Motor Company and General Electric in the Executive Budget and we will honor that commitment.

I have recommended that we continue to provide the training funds associated with the Toyota project requiring an additional $12.6 million in fiscal year 1989.

I have also recommended an additional $4.3 million each year of the biennium for a customized training program under the Bluegrass State Skills program. This program will provide training designed for the specific needs of expanding industries.

To address the job skill needs of unemployed Kentuckians a new Job Training Certificate program will be initiated in fiscal 1990 with a $3 million appropriation. Job-linked education and vocational education vouchers will be issued to unemployed Kentuckians to pay for a portion of the tuition and expenses associated with training programs. Training Centers will be reimbursed on a performance basis with the total certificate value based upon an individual's progress in the training program and successful job placement.

I am supporting additional funds for industrial development especially small and minority business assistance including $250,000 more per year to promote Kentucky's positive business climate.

At the University of Kentucky I am recommending a $16 million program expansion and facility renovation of the Commerce and Economics Building. One-half of these funds will be raised privately and the rest will be supported by a state revenue bond. This will enable the University to modernize and expand its relationships with Kentucky businesses.

I will continue our foreign offices and support the office of International Marketing.

Agriculture remains a key element of our economic development efforts. We are going to help Kentucky's farm families. For the first time in Kentucky we are going to fund an alfalfa and hay grading and marketing program.

We will increase state support of the brucellosis eradication program to help sell Kentucky cattle.

These programs and recommendations are far-reaching. They recognize that education and economic development are inextricably connected. There is nothing we can do more vital to our citizens, our children, and our communities than to promote and secure decent jobs and better education throughout the Commonwealth.

Every Governor and every Legislator bears a special responsibility for the welfare of underprivileged Kentuckians. The Executive Budget I am recommending will provide for the continuation of all essential human services.

It will concentrate our limited dollars on the special problems of the very young and senior citizens. It recognizes that every Kentuckian deserves adequate prenatal, emergency, and acute care and focuses renewed emphasis on increasing services in the rural counties of Kentucky.

Important improvements are recommended to aid the mentally ill who are institutionalized and the mentally retarded.

For too many years Kentucky has had one of the worst infant mortality rates in the nation. We are going to change that.

The Executive Budget provides an additional $4 million over the next biennium to use as matching funds in Medicaid to expand prenatal services, thus providing with federal funds an additional $14 million over the biennium.

We are recommending an additional $1 million over the biennium to expand comprehensive well child services to Kentucky's children. We cannot allow Kentucky's children to die or suffer life-long disabilities simply because they are poor.

Furthermore, we will increase funds in several vital human services areas.

- $200,000 is directed to expand pediatric services for handicapped children.

- $700,000 is directed to hearing loss prevention programs.

- I am recommending an annual 5 percent increase in Aid to Families with Dependent Children to create almost $30 million in new money for AFDC.

- We are going to enhance our efforts to collect child support payments with more people and a computerized tracking system.

- An additional $1 million is earmarked for day care.

- $500,000 is set aside for rural ambulance services.

We are recommending other increases in human services, particularly those that enhance our preventive health programs.

- $900,000 is directed to mental health services for the elderly.

- Six additional respite centers are proposed for victims of Alzheimer's disease.

- We will direct $1.1 million in local health program funds to Medicaid. This will allow us to add 8 million in federal dollars available for the medically indigent. We have leveraged every federal dollar that we can responsibly find.

- We will open a 34-bed secure psychiatric unit in the Grauman Building of Central State Hospital.

- $1 million is included for additional patient care staff and improvements at the Hazelwood Mental Retardation Hospital.

- Finally $900,000 is included to expand vocational, residential, and in-home services for our mentally retarded citizens.

Perhaps no sector of Kentucky's economy can be as efficiently expanded as our tourism industry. Tourism is an area ripe for expansion. In order to take advantage of our assets, I am recommending an increase of $2 million each year of the new biennium for a comprehensive advertising campaign. I will continue the matching funds advertising program. These initiatives will make Kentucky competitive with the seven surrounding states in tourism promotion.

A number of Parks improvements have been started, but lack adequate funds to bring them to completion. I am recommending that we complete the improvements and expansions currently under design at Jenny Wiley State Park, Greenbo Lake State Park, Natural Bridge, Blue Licks, Kincaid Lake, and Lake Barkley State Resort Park.

In addition, we must continue a high level of maintenance at the state Parks and I will recommend $6.4 million to do just that.

Further, this recommended budget includes:

- $15 million to expand exhibition space at the Kentucky Fair and Exposition Center.

- $1.2 million for new stalls and facilities at the Kentucky Horse Park.

The proper complement to an effective tourism industry and a high quality of life is a clean and safe environment. We are going to pursue improvements in the quality of our water management program in Kentucky with an additional $1 million in state appropriations each year of the biennium. These funds will be matched by over $300,000 in federal funds and will be focused primarily on groundwater and non-point source pollution.

Additional appropriations totaling over $1,750,000 for the biennium will be made available to maintain full staffing of the surface mining primacy program. All 408 permanent, full-time employee positions are continuing and will bring in nearly $9 million in federal funds in fulfillment of our agreement with the U.S. Office of Surface Mining and the National Wildlife Federation.

The budget I am recommending allows us to move forward with our responsibilities in corrections and will keep us in compliance with the Federal Court Consent Decrees. I will recommend that we complete the new Morgan County Medium Security Institution and add 550 beds at a cost of $28 million. We plan to open the Morgan County Institution in the second year of the biennium and operating and personnel costs have been included for this effort.

In addition, we will need a broad range of bed expansion options to stay ahead of the prison population crisis. To that end, I am recommending $8.1 million to locate and convert an existing facility into a medium security correctional institution.

We also recommend expanding existing facilities with an additional 200 beds at the Northpoint Training Center near Burgin.

The Roederer Farm Center at LaGrange will be converted into a medium security facility, and we will construct a new minimum security unit on the grounds to continue to operate the prison farm.

Certain emergency actions were initiated by the Collins Administration to deal with the Federal Court Order to remove state felons from the Jefferson County Jail. These emergency actions will be continued throughout the new biennium.

We will also continue to comply with all aspects of the Federal Consent Decrees and Federal Court Orders already in place, necessitating $5.9 million in improvements and construction at the Kentucky State Reformatory and PeeWee Valley.

I believe we need to look beyond traditional methods and expensive institutions for the answers to our corrections problems. I have recommended that we contract with a private vendor for the placement of up to 250 minimum security inmates beyond current levels.

I have also included funding for an additional 20 halfway house beds and adequate funds to support pre-release jail beds in five new regional jails scheduled to come on line in the new biennium.

Kentuckians have put a lot of their money and pride into building a strong infrastructure in this Commonwealth. I intend to maintain what we presently have in the proper way and have not included any unnecessary bricks and mortar in my budget recommendation to you.

Beyond the initiatives I have already mentioned there are four major capital construction priorities. In the 1986 Session of the General Assembly you authorized two major projects that, like the Parks projects I mentioned earlier, were for some reason not adequately funded. Two of these projects are the renovation and asbestos abatement at the Health Services Building here in Frankfort and the mechanical and electrical renovation of the Capitol Building and Capital Annex.

I am recommending that we complete these projects with $5 million and $3 million, respectively. I am also recommending an appropriation of $2.5 million in 1990 for site acquisition and final design of a consolidated state laboratory including a new crime lab for the State Police, an environmental lab, new health and communicable disease lab, and, for the state medical examiners program.

Each of these laboratories is presently housed in inadequate, crowded, antiquated, or private facilities that are inappropriate. Each day the conditions in these labs get worse.

The General Assembly's Capital Construction Oversight Committee has recommended construction of this laboratory and it is my belief that if we do not get going with this project, it will be another decade before the matter is properly dealt with.

Meanwhile, we must not endanger our chain of evidence, our criminal investigations, or our environmental and health research.

Our personnel policy for the next biennium must be constrained by the limited funds available. I am therefore recommending that state employees receive a 2 percent increment in fiscal year 1989 and a 5 percent increase in fiscal year 1990. I would like to do more than 2 percent, but fiscal reality dictates otherwise.

Higher Education will receive a total General Fund increase of $4.3 million in fiscal 1989 and $26.7 million in fiscal 1990. Most of the additional funding in fiscal 1989 will cover previously approved debt service, the hospital contract for the University of Louisville, and other previous obligations. In fiscal 1990, Higher Education will receive a 5 percent increase.

In addition, the number one new construction priority of the Community College System will be funded with a new learning center at Ashland Community College costing $4.3 million.

In my Administration the Community College System will have an expanded role in job training and economic development.

The Council on Higher Education's recommendations for capital construction systemwide priorities identified life safety and health-related improvements as the top priority. Therefore, I have recommended a state-supported bond issue for the utility tunnel at Morehead and other improvements at various state universities totaling over $13.2 million.

Finally, it is essential that the Commonwealth be able to act during emergencies and that the credit rating of the Commonwealth be maintained. I am therefore recommending that we continue a Budget Reserve Trust Fund each year of the new biennium. For fiscal 1989 I am recommending $15 million and for fiscal 1990 I will recommend an additional $20 million.

With the prudent and conservative revenue estimates we are making there should be no occasion to cut budgets in the upcoming biennium. Therefore, we will be able to start the 1990-92 biennium with at least $35 million of genuine surplus in the bank. I regard that amount as a minimum that should be maintained.

I am sure that many of you in this Chamber and those watching on T.V. are surprised at the initiatives and programs I have just enumerated.

All that is here is essential. This is the beginning of the road back. This budget can be sustained without a tax increase.

1. We can ensure that the revenue estimates are sound and attainable. We've done that.

2. We must use all existing sources of income in these difficult times. This means what it says — all existing sources of income — and will necessitate the temporary suspension of certain agency fund statutes for the upcoming biennium. This is the same approach, on a greater scale, that the General Assembly adopted for the 1984-86 biennium.

The draft Appropriations bill prepared by the Executive will capture all major sources of excess and unbudgeted agency funds. Carryforwards will be limited to the amounts necessary for cash flow and continuing operations. No compensation to any local police officer or professional firefighter will be affected in any manner by as much as one nickel. But we will take the huge surplus that has accumulated in this fund and dedicate it to the ongoing programs and salaries of state employees and teachers.

We will not touch the agency funds generated by fish and game licenses and the Department of Fish and Wildlife will be able to match all federal funds. But we will take the excess agency fund carryforward generated by investment income and sales of confiscated equipment.

We will capture excess agency funds in the Department of Financial Institutions and the Department of Insurance. No ongoing operations will be affected by taking these surpluses.

3. We can stop waste and take away overpayments that we cannot afford to continue. Specifically, we will not fund vacant positions in the upcoming biennium except under extraordinary circumstances. We will cease to make the overmatch, now pay attention, I said overmatch, to the Kentucky Employees' Retirement System, the State Police Retirement System, and the Teachers' Retirement System. No retired employee or teacher will be affected by this decision. I will never allow that to happen. No benefits of anyone will be affected and the actuarial soundness of the program will be ensured by continuing full employer contributions throughout both years of the new biennium. Neither system will be able to go out and independently build or buy a new building, however. Of course, they don't need to. Both systems just acquired new facilities in the current biennium.

My decision to suspend the overmatch provisions of the Teachers' Retirement System over the next biennium will still mean that the state will put over $125 million into the Teachers' Retirement fund out of the General Fund as required as an employer contribution. It will in no way affect the strong status of the fund. Nor will it jeopardize one nickel of payment to any retired teacher as obligated. It reflects my decision that the people of Kentucky cannot afford to overmatch a Teachers' Retirement Fund, which is on sound footing, at the expense of funding employee raises. Funds secured from the suspension of the overmatch of the Teachers' Retirement system and the discontinuance of the overmatch of the Kentucky Employee's Retirement System, which is adequately funded, are the source of the funds which are paying for state employee and teacher's raises over the next biennium. Until I made the decision to suspend the unnecessary overmatch and redirect an approximate $40 million each year of the biennium the upcoming budget included provisions for no state employee or teacher raises the first year of the biennium and only a 3 percent raise the second year of the biennium.

I also call upon both retirement systems to allow an independent actuarial and accounting study to be conducted, to be paid for by the Office of the Governor, to evaluate both funds and to make recommendations. I made this commitment to the workers of Kentucky and the teachers of Kentucky during my campaign and feel it essential to give me adequate information about these funds to make additional decisions and recommendations to the General Assembly in the future.

4. I recommend a tax amnesty and taxpayer compliance program. The Revenue Cabinet has been instructed to give fair warning that the Commonwealth intends to collect all taxes properly owed to it. We will pursue an aggressive and long-term policy to this effect.

Legislation is being prepared to extend a tax amnesty program to all Kentuckians who may have neglected for some reason or failed for any reason to remit their fair taxes on a prompt and timely basis. This olive branch will be extended only briefly and will be followed by a tough tax compliance program. It is conservatively estimated that a tax amnesty program will collect $10 million in fiscal year 1989. The Executive Budget includes $650,000 to develop, publicize, and operate the tax amnesty program. By 1990 this effort should yield $10 million a year in recurring revenues from vigorous enforcement and renewed compliance. The Revenue Cabinet's budget includes nearly $900,000 in additional funds for the development of a centralized tangible property assessment system. This system will provide a tangible complement to the successful intangible property system that was initiated this biennium.

5. We can adopt an accelerated revenue collection program for sales and use taxes, individual withholding taxes, and coal severance taxes. We will implement emergency administrative regulations for the sales and use taxes and individual withholding taxes. We have also drafted legislation to provide for more timely remittance of coal severance taxes.

These efforts will focus only on the largest and most sophisticated taxpayers. Presently, sales and use taxes are collected by companies as much as 50 days before the funds are remitted to the state. By requiring the largest of these companies, those who remit $10,000 or more per month in sales and use taxes, to remit their reports and payments on the 15th and 25th of each month, the Commonwealth will experience a one-time revenue collection of $22 million. Fourteen states have adopted similar tax acceleration programs.

Nineteen states have adopted an accelerated tax collection program for individual income withholding taxes. This change to semi-monthly remittance would affect only Kentucky's 100 largest employers.

Approximately 45 of Kentucky's largest coal operators remit 64 percent of the total coal severance taxes.

By requiring semi-monthly remittance for the few companies, Kentucky will receive an additional $5 million in Coal Severance Tax receipts in fiscal year 1989.

6. We must collect our receivables and other overdue obligations. If the money was advanced in good faith, then we must agree to collect it.

7. We intend to temporarily redirect $35 million a year from the Transportation Cabinet and the Road Fund to the Department of State Police for its enforcement of state traffic and motor vehicle laws. Quite frankly, this is the single action I am most reluctant to take in this balancing of the Executive Budget.

I realize that the Road Fund receipts have recently been called into question by Judicial action in overturning an enactment of the 1986 General Assembly on the decal tax. I wish to state for the record that I will work ardently with you in the General Assembly to ensure that the funds lost from the decal tax are made up in other ways. My staff has been working on draft legislation to provide some alternatives that will stand up to court challenge, to the trucking businesses, and will yield at least the same amount of revenue as the decal did.

I recommend that we honor your legislative sunsetting of the gasohol credit, being careful to protect small Kentucky businesses in the process. We will also need to do more. I am open to suggestion and willing to work hard to see that we have no net loss of income.

Additionally, I am not proposing that any new debt be issued this biennium from the Road Fund until we can solidify its long-range financing. I know you thought that the nickel increase passed in 1986 that was coupled with the decal tax had already accomplished this goal. Unfortunately, the underfunding of the education package and the successful court challenge to the decal by the trucking industry has undermined this goal.

I pledge that the Road Fund diversion will be temporary — for the upcoming biennium only. While I believe it is legitimate to support a portion of the State Police activities from the Road Fund, as has been done in the past by the General Assembly, it is an action I would prefer not to take.

I have had to sacrifice some of my own priorities to make this budget work. I have postponed recommending full funding of almost all of my Kentucky First initiatives proposed in the gubernatorial election campaign. I have been very candid with you about may reluctance to make the recommendation on the Road Fund.

This is a tough budget, but a necessary one. It is fair, responsible, and above all realistic. It retains priorities in elementary and secondary education and economic development. It retains vital human services and enhances others. In short. This is the budget that gets us back on track. That gets us moving again. It calls for a year of common sacrifice for a decade of common sense.

This budget breaks the yoke of the old way in Kentucky. It is good news for those of us who are tired of being frustrated and tired of being behind. We are moving ahead on a new course with vigor and enthusiasm. When we get through, we will see the emergence of a new Kentucky. Stronger — Competitive — Determined — A Kentucky First for a change.

Good Evening.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Announcements

The Clerk announced the filing of the following Floor Amendment:

Floor Amendment No. 1 to **HB 54**, by Representative Lear

Amend printed copy of Committee Substitute to **HB 54**, on page 2, line 4, by deleting the words "*zone map amendments*"; and

On page 2, line 6, after the word "*plans*" by inserting the following: "*; but not including zoning map amendments which impose no limitations or restrictions upon the use of the subject property other than those generally applicable to properties within the same zone*"; and

On page 2, line 7, by deleting the word "*cross*" and on that same line by deleting the comma; and

On page 2, line 8, by deleting the words "*property address*"; and

On page 2, line 9, after the word "*development.*" by inserting the following: "*The county clerk shall maintain in his office a record of the name and address of the agency having custody of the official zoning map for each planning unit within the county. All zoning map amendments shall be reflected on the official zoning map within thirty (30) days of the date upon which final action approving such amendments is taken by the planning unit.*"; and

On page 2, line 15, after the word "*fee*" by deleting "*, not to*" and inserting in lieu thereof "*for*"; and

On page 2, line 16, by deleting the word "*exceed*"; and

On page 2, line 17, after the word "*certificate,*" by inserting the following: "*not to exceed ten dollars and fifty cents ($10.50),*"; and

On page 3, line 23, after the word "*certificate.*" by inserting the following: "*Whenever a land use restriction is imposed upon two or more properties or lots in the same proceeding, including but not limited to the approval of a subdivision plat or development plan for multiple lots, a single certificate shall be filed for all such properties or lots collectively and a single filing fee shall be paid therefor.*"; and

On page 6, after line 6, by inserting the following new sections:

"Section 6. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the

conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file [~~with the county clerk, as required in KRS 100.329~~]. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to whichthe application applies and such other persons as the local zoning ordinance, regulations or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.

Section 7. KRS 100.329 is amended to read as follows:

All final plats approved by the planning commission [~~and all variances and conditional use permits approved by the board of adjustments~~] shall be recorded at the expense of the applicant in the office of the county clerk. A copy of all regulations and the official maps of each planning unit shall be filed *with the appropriate agency as provided in this chapter or as otherwise provided by law* [~~in the office of the county clerk~~]."

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 28, 1988.

On the roll call the vote was yeas 72-Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Castleman, L. Clark, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, Preston, Priddy, Pritchett, Richards, B. Richardson, P. Richardson, Ridley, Robinson, Seum, R. Smith, Strong, Stumbo, Turner, Walker, White, Will, Worthington, Yates. Nays 3-Bronger, Heleringer, Overstreet.

The motion to adjourn was adopted.

THURSDAY, JANUARY 28, 1988

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Invocation by the Barbourville Community Choir, Barbourville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 27, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 8** and **SB 112**.

Representative Clarke moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

HR 52, by Representative Clarke: A RESOLUTION honoring the Danville High School Admirals Girls Cross Country and Track Teams.

Representative Clarke moved the adoption of the following **HR 52**

HR 52. A RESOLUTION honoring the Danville High School Admirals Girls Cross Country and Track Teams.

WHEREAS, the success of a team can be traced to the character of its coach; and

WHEREAS, coach E. G. Plummer has coached the Danville Admirals girls cross country team to 4 consecutive state championships; and

WHEREAS, coach Plummer also coached the Danville Admirals girls track team to the Class AA State Championship the last 5 years running; and

WHEREAS, the Admirals are kept in top shape with the aid of trainer Myron Fortune;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House praises and salutes the 1987 Danville Admirals girls cross country and track teams for winning their state championships and continuing their winning tradition.

Section 2. That the House honors coach Plummer, a Danville graduate, for the leadership and example he has set for his teams over the years and congratulates principal Don Turner and superintendent Justin D. Minneham for their support.

Section 3. That sufficient copies of this resolution be sent to coach Plummer for distribution to his staff, team members, principal and superintendent.

HR 52 was adopted by voice vote.

HR 53, by Representative Clarke: A RESOLUTION honoring the Danville High School Admirals 1987

State AA football champions.

Representative Clark moved the adoption of the following **HR 53**:

HR 53. A RESOLUTION honoring the Danville High School Admirals 1987 State AA football champions.

WHEREAS, Danville has a great football tradition of some 40 years; and

WHEREAS, coach Tom Duffy has continued this tradition in recent years and is considered one of the top high school football coaches in the Commonwealth; and

WHEREAS, since his first season in 1980, coach Duffy's 8 season record is 75 wins and only 23 losses; and

WHEREAS, the 1987 championship team numbered only 26 players, where most teams number 2 to 3 times that many; and

WHEREAS, in addition to their prowess on the field almost half the squad maintains a grade point average of 3 or above; and

WHEREAS, several thousand supporters attended the championship game to see the Admirals defeat the defending state champions from Mayfield; and

WHEREAS, this victory capped a 14-1 season where the Admirals won their last 12 games in a row;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House applauds and honors the Danville Admirals football team for winning the Class AA State Championship.

Section 2. That the House also congratulates coach Tom Duffy, assistant coaches David McAfee, Jay Reynolds, Bernard Brant, Kenny Yount, Norman "Scrapper" Letcher, managers Duffer Duffy, Denise Dorham, Erin Smith, Shelly Bowling, trainer Myron Fortune, principal Don Turner, superintendent Justin D. Minneham and others who have contributed to making the Admirals a first-class football program.

Section 3. That the Clerk of the House send sufficient copies of this resolution to coach Duffy for distribution to the team members, staff, principal and superintendent.

HR 53 was adopted by voice vote.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 307** and **SB 16** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:25 p.m.)

HB 307 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 513, by Representatives Ford, Siler, White and Robinson: AN ACT relating to insurance.

HB 514, by Representative Ackerson: AN ACT relating to planning and zoning.

HB 515, by Representative Meyer: AN ACT relating to special ad valorem taxes by cities.

HB 516, by Representative Clarke: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 517, by Representative Farrow: AN ACT relating to Kentucky state police retirement benefits.

HB 518, by Representatives LeMaster and Deskins: AN ACT relating to liability insurance rates.

HB 519, by Representatives J. Brown, Hoover and Adams: AN ACT relating to surface coal mining.

HB 520, by Representatives Lear and Freibert: AN ACT relating to child safety.

HB 521, by Representative Johnson: AN ACT relating to the licensure discipline of the practice of medicine and osteopathy.

HB 522, by Representatives Burch and Scorsone: AN ACT relating to the prevention of the spread of the human immunodeficiency virus (HIV).

HB 523, by Representative Ackerson: AN ACT relating to support of spouses and children.

HB 524, by Representative B. Smith: AN ACT relating to employment skills training.

HB 525, by Representatives B. Smith, Lundergan, Castleman, O'Brien, Morris, Long, Lyne, P. Richardson, Hancock, Gray, Gedling, Bronger, Noland and Altman: AN ACT relating to frivolous lawsuits.

HB 526, by Representatives K. Harper and Freibert: AN ACT relating to economic development bond fund projects.

HB 527, by Representative K. Harper: AN ACT relating to public health.

HB 528, by Representatives Lear and Burch: AN ACT relating to residential care facilities for handicapped persons.

HB 529, by Representative Ackerson: AN ACT relating to financial institutions.

HB 530, by Representative Riner: AN ACT relating to the public consumption of goods from the socialist republic of Romania.

HB 531, by Representative Blevins: AN ACT relating to insurance.

HB 532, by Representative Blevins: AN ACT relating to marriage licenses.

HB 533, by Representatives Overstreet, Deskins, Gray, Cyrus, Jackson, Rapier, Lefevers and Bronger: AN ACT relating to motor vehicle operator's licenses.

HB 534, by Representatives Adkins and Little: AN ACT relating to state police retirement.

HR 49, by Representative White: A RESOLUTION commending the Barbourville Community Choir.

HR 50, by Representative Crupper: A RESOLUTION saluting the Owen County Rural Electric Cooperative Corporation.

HJR 51, by Representatives Gregory and Hancock: A JOINT RESOLUTION making a special appropriation to the Kentucky small business development center program.

HR 54, by Representatives J. Harper and K Harper: A RESOLUTION adjourning the House of Representatives in honor of restaurateur Ed Hasenour.

HJR 55, by Representative Northup: A JOINT RESOLUTION directing the establishment of a legislative standing committee on economic development.

Report of Committees

The Committee on Rules reported **HB 68, HB 175, HB 302, HB 322, HB 386, HB 413** and **HJR 27** have been posted for passage in Orders of the Day, January 29, 1988.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 176, HB 204**.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, January 29, 1988: **HB 65, HB 67, HB 312**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 509**.

Cities: **HB 504**.

Counties and Special Districts: **HB 508**.

Education: **HB 502, HB 507**.

Energy: **SCR 1, SB 10, HB 511**.

Health and Welfare: **HB 501**.

Judiciary-Criminal: **HB 499, HB 503, HB 505, HB 512**.

Natural Resources and Environment: **HB 500, HB 506**.

State Government: **HCR 48, HB 510**.

Transportation: **HJR 46**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **HB 479, SB 47, SB 53, HB 433**.

Judiciary-Civil: **HB 460, HB 448, HB 415, HB 403, HB 341, HB 304, HB 344**.

The Clerk announced **HB 428, HB 429, HB 430, HB 431**, and **HB 432** have been withdrawn from consideration by the Committee on Natural Resources and Environment.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 442** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 442, AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner;

(b) The fee for such permit of operation shall be *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] for each ride or attraction owned or operated in this state;

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of three hundred thousand dollars ($300,000) due to all bodily injuries or deaths per occurrence, or in lieu thereof, if the applicant's amusement ride or amusement attraction is one (1) that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of liability insurance in the sum of one hundred thousand dollars ($100,000) or proof of financial responsibility in the sum of one hundred thousand dollars ($100,000). Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage;

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors; and

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount of one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety; or

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present;

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236; and

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236: the balance, if any, shall be paid into the general fund of this state.

The Committee on Agriculture and Small Business reported **HJR 29** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HJR 29, A JOINT RESOLUTION establishing a tobacco museum in Mason County.

WHEREAS, the cultivation, manufacture, and sale of tobacco have played a central role in the history and economy of Kentucky; and

WHEREAS, tobacco is Kentucky's most important cash crop, at the heart of Kentucky agriculture, and the economy of the state, contributing hundreds of millions of dollars in income and tax revenues; and

WHEREAS, Kentucky is the leading producer of burley in the world and a leading manufacturer of tobacco products; and

WHEREAS, tobacco played a major role in the settlement and history of Kentucky, being used ceremonially by the Indians for thousands of years before the coming of our forebearers, encouraging white man's exploration for new land on which to grow the valuable crop, and stimulating agricultural commerce and the development of Kentucky's major cities; and

WHEREAS, Maysville and Mason County are among the earliest and most important centers for the growth, manufacturing, and sale of burley tobacco in Kentucky and tobacco played a central role in Mason County's history; and

WHEREAS, at a time when Kentucky was still a wilderness whose few settlers were struggling to survive against hostile elements, even before Kentucky became a state, in 1785 some of the first burley tobacco was planted near Maysville and in 1787 the first tobacco inspection station and warehouse were established in Northern Kentucky in Mason County; and

WHEREAS, against mighty odds, Mason County's settlers established a major shipping port and center for tobacco growing, manufacturing and sale which is now the second largest loose-leaf burley tobacco market in the world; and

WHEREAS, the creation of a tobacco museum in Mason County would be a fitting and much deserved recognition of these historic facts; and

WHEREAS, the people in Mason County own and will donate many exhibits relating to growth, manufacture, and sale of tobacco throughout the county's history, and people in Mason County will work to procure the land and a facility for the museum;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be established the official Kentucky burley tobacco museum celebrating and documenting the contributions of tobacco to the history and economy of the state and the role of Mason County in tobacco's growth, manufacturing, and sale in the state.

Section 2. That the Kentucky burley tobacco museum be located in Mason County, Kentucky.

The Committee on Business Organizations and Professions reported **HB 284** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 284, AN ACT relating to cigarette license.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the cabinet as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the cabinet. The cabinet shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the cabinet.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the cabinet from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The cabinet may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the cabinet at any reasonable time shall be grounds for the revocation of any license issued by the cabinet, after due notice and a hearing by the cabinet. The secretary of revenue may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the secretary together with a recommendation as to the revocation of such license. From any revocation made by the secretary of revenue on such report, the licensee may prosecute an appeal to the Kentucky board of tax appeals as provided by law. Any person whose license has been revoked for the wilful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section. or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable *except*

that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the cabinet may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

The Committee on Cities reported **HB 240** with Committee Substitute attached thereto, **HB 294**, and **HB 377** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 240, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to *at least one (1)* [~~an~~] owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners.

Section 2. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class a hearing is scheduled on a proposal by a property owner to amend any zoning map the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed thirty (30) days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission;

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to *at least one (1)* [~~an~~] owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to *at least one (1)* [~~an~~] owner of every parcel of property directly across the street from said property, and to *at least one (1)* [~~an~~] owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; provided, however, that no first-class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners;

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing; and

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Section 3. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the

conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.329. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, *at least one (1)* [~~an~~] owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.

Section 4. KRS 100.243 is amended to read as follows:

Before any variance is granted, the board must find *that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board may consider whether:*

(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(2) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

(3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. [~~all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the variance:~~

~~(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;~~

~~(2) The strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant;~~

~~(3) Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation; and~~

~~(4) Reasons that the variance will not adversely affect the public health, safety and welfare, and will~~

~~not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.~~]

Section 5. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.

(2) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3) No *owner of* [~~person owning~~] land composing a subdivision *and no person contracting with such owner shall record or cause to be recorded an instrument transferring or agreeing to transfer*[~~, or his agent, shall transfer or sell or agree to sell~~] any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. *The recording of* any such instrument of transfer *or agreement to transfer*[~~, sale or contract~~] shall be void [~~and shall not be subject to be recorded~~] unless the subdivision plat subsequently receives final approval of the planning commission *and is properly recorded,* but all rights of *all persons* [~~such purchaser~~] to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(4) Any street or other public ground which has been dedicated shall not be accepted for maintenance by the legislative body until it has received final plat approval by the planning commission.

Section 6. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding public utilities operating under the jurisdiction of the public service commission or the department of vehicle regulation or federal power commission, any municipally owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The public service commission and the department of vehicle regulation shall give notice to the planning commission of any planning unit of any hearing which effects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) *Any proposal* [~~All proposals~~] for *acquisition* [~~acquisitions~~] or disposition of land for public facilities, or changes in the character, location or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to *be reviewed* [~~review it~~] in [~~the~~] light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan[~~, and whether it approves or disapproves of the project~~]. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. *No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.* [~~A majority of the entire membership of the legislative body may override this disapproval of the commission.~~]

Section 7. KRS 100.347 is amended to read as follows:

(1) Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) days after the final action of the board. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the circuit court.

(2) Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court.

(3) Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county or urban-county government, relating to a map amendment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.

(4) *The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other* persons speaking at the public hearing [~~in favor of the decision being appealed~~] are not required to be made parties to such appeal.

(5) For purposes of this chapter, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

The Committee Substitute to **HB 240** is as follows:

HB 240, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement

have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.329. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon *conclusively* to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. *A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.*

Section 2. KRS 100.212 is amended to read as follows:

When in any planning unit except for a planning unit containing a city of the first class, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that

the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon *conclusively* to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. *A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.*

Section 3. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class a hearing is scheduled on a proposal by a property owner to amend any zoning map the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed thirty (30) days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission;

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to an owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to an owner of every parcel of property directly across the street from said property, and to an owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; provided, however, that no first-class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon *conclusively* to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. *A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address*;

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing; and

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Section 4. KRS 100.243 is amended to read as follows:

(1) Before any variance is granted, the board must find *that the granting of the variance will not adversely*

affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

(a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

(c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(2) The board may deny but shall not be compelled to deny any request for a variance arising from cirsumstances that are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. [~~all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the variance:~~

~~(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;~~

~~(2) The strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant;~~

~~(3) Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation; and~~

~~(4) Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.~~]

Section 5. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.

(2) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3) No person owning land composing a subdivision, or his agent, shall transfer or sell [~~or agree to sell~~] any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer *or*[~~,~~] sale [~~or contract~~] shall be void and shall not be subject to be recorded unless the subdivision plat subsequently receives final approval of the planning commission, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any [~~contract or~~] instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have. *Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision of land contemplated therein is lawful and the subdivision plat subsequently receives final approval of the planning commission.*

(4) Any street or other public ground which has been dedicated shall not be accepted for maintenance by the legislative body until it has received final plat approval by the planning commission.

Section 6. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding public utilities operating under the jurisdiction of the public service commission or the department of vehicle regulation or federal power commission, any municipally owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The public service commission and the department of vehicle regulation shall give notice to the planning commission of any planning unit of any hearing which effects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) *Any proposal* [~~All proposals~~] for *acquisition* [~~acquisitions~~] or disposition of land for public facilities, or changes in the character, location or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to *be reviewed* [~~review it~~] in [~~the~~] light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan[~~, and whether it approves or disapproves of the project~~]. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. *No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.* [~~A majority of the entire membership of the legislative body may override this disapproval of the commission.~~]

Section 7. KRS 100.347 is amended to read as follows:

(1) Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) days after the final action of the board. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the circuit court.

(2) Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court.

(3) Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county or urban-county government, relating to a map amendment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.

(4) *The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other* persons speaking at the public hearing [~~in favor of the decision being appealed~~] are not

required to be made parties to such appeal.

(5) For purposes of this chapter, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

HB 294. AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) (a) As used in this section, "cable service" means:

1. The one-way transmission to subscribers of video programming, or other programming service; and

2. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service; and

(b) "Cable repair service" means the repairing of any cable system equipment, including cable boxes or cable control equipment, cable wires, or cable poles.

(2) Every cable television company licensed or franchised and operating in this state shall provide and maintain safe, adequate and reliable service, including cable repair service, to any subscriber who has paid the agreed amount of money for cable service for the preceding thirty (30) day period and who is not currently in arrears with such cable television company.

HB 377. AN ACT relating to non-elected city officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.080 is amended to read as follows:

(1) All nonelected city offices shall be created by ordinance which shall specify:

(a) Title of office;

(b) Powers and duties of office;

(c) Oath of office;

(d) Bond, if required; and

(e) Compensation.

(2) All nonelected city officers shall be appointed by the executive authority of the city and, except in cities of the first class, all such appointments shall be with approval of the city legislative body if separate from the executive authority. The officers may be removed by the executive authority at will unless otherwise provided by statute *or ordinance*.

(3) Each appointed and elected city office existing upon adoption of this chapter shall continue until abolished by ordinance, except that the offices of mayor and legislative body members may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.

(4) No city may create any elected office. Existing elected offices may be continued under provision of subsection (3) of this section, but no existing elected office may be changed.

The Committee on Health and Welfare reported **HB 48**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 48. AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky cabinet for human resources;

(4) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(5) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, [~~other than designated forensic psychiatric facilities,~~] approved by the Kentucky cabinet for human resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(6) "Judge" means any judge or justice of the court of justice or a trial commissioner of the district court acting under authority of SCR 5.030;

(7) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve his level of functioning, consistent with accepted professional practice in the least confining setting available;

(8) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(9) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(10) "Petitioner" means a person who institutes a proceeding under this chapter;

(11) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, *or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American nurses association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program*; or

(e) A certified social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, *or a certified social worker under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program*;

(12) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(13) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(14) "Secretary" means the secretary of the cabinet for human resources.

Section 2. KRS 202A.021 is amended to read as follows:

(1) The hospitalization of minors alleged to be mentally ill, except those provided for in KRS Chapter 640, shall be governed by KRS Chapter 645.

(2) An authorized staff physician of a hospital may admit for observation, diagnosis, care and treatment any person who is mentally ill or who has symptoms of mental illness and who applies voluntarily therefor.

(3) An authorized staff physician of a hospital shall discharge any voluntary patient who has recovered or whose hospitalization the staff physician determines to be no longer necessary or advisable.

(4) A voluntary patient shall be released upon the patient's written request unless further detained under the applicable provisions of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, if the hospital to be utilized is one (1) operated by the cabinet, the qualified mental health professional shall be a staff member of a regional community mental or mental retardation program.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further detained under the applicable provisions of this chapter.

(3) Any person admitted to the hospital under subsection (1) of this section or released under subsection (2) of this section shall be transported to and from such person's home county by the sheriff of that county.

(4) A person who has been detained under this section shall not remain in jail in excess of forty-eight (48) hours pending evaluation and transportation to the hospital.

Section 4. KRS 202A.041 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge *may, if the procedures as provided in Section 3 of this Act are to be implemented, order the person to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as provided in Section 3 of this Act shall be carried out. Otherwise, the court* shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.

(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within *six (6)* [~~five (5)~~] days from the date of arrest (excluding weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.

(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parent(s), or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.

(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.

(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.

(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order.

Section 5. KRS 202A.051 is amended to read as follows:

(1) Proceedings for sixty (60) days or three hundred sixty (360) days involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in district court.

(2) *The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."*

(3) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, commonwealth attorney, spouse, relative, friend or guardian of the individual concerning whom the petition is filed.

(4)[~~(3)~~] The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown;

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally ill and presents a danger or threat of danger to self, family or others if not restrained; and

(g) If the petition seeks a three hundred sixty (360) day involuntary hospitalization of the respondent, the petition shall further set forth that the respondent has been hospitalized *in a hospital or a forensic psychiatric facility* for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months.

(5)[~~(4)~~] Upon receipt of the petition the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with such examination.

(6)[~~(5)~~] If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court *may, if the procedures provided in Section 3 of this Act are to be implemented, order the individual to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as set forth in Section 3 of this Act shall be carried out. Otherwise, the court* shall:

(a) Set a date for a preliminary hearing;

(b) Notify the respondent, his legal guardian, if any, and if known, and his spouse, parent(s), or nearest relative or friend concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent;

(c) Cause the respondent to be examined without unnecessary delay, by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health *professionals* [~~professional~~] shall certify within twenty-four (24) hours (excluding weekends and holidays) their findings.

(7)[~~(6)~~] (a) If the respondent is being presently detained under the provisions of this chapter, the court may order further detention of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently detained under the provisions of this chapter, the court may issue a warrant for the arrest of the respondent commanding therein that the respondent be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician.

(8)[~~(7)~~] When the court is authorized to issue a warrant for the arrest of the respondent, the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place therein specified where the respondent shall be there examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing. If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, a warrant may then be issued.

(9)[~~(8)~~] If upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing to determine if the respondent should be involuntarily hospitalized.

(10)[~~(9)~~] If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from any detention.

(11)[~~(10)~~] If upon completion of the final hearing, the court finds the respondent should be involuntarily

hospitalized, the court shall order the respondent hospitalized in a hospital for *a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred and sixty (360) consecutive days from the date of the court order, whatever was* the period of time that was requested in the petition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A respondent who has been ordered involuntarily hospitalized following the preliminary hearing shall have the venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is hospitalized.

(2) The court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

Section 7. KRS 202A.076 is amended to read as follows:

(1) The preliminary hearing need not be formal and may include the receiving of the qualified mental health *professionals'* [~~professional's~~] reports as evidence. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses who appear and testify against him. The court may exclude all persons not necessary for the conduct of the hearing. The respondent and his attorney may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. *Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing* [~~The court shall impanel a jury for the final hearing unless the respondent and his attorney waive respondent's right to a jury trial~~].

Section 8. KRS 202A.081 is amended to read as follows:

(1) Following the preliminary hearing but *prior to the completion of* [~~pending~~] the final hearing, the court may order the person detained in jail, or in a hospital approved by the secretary for such purpose for the committing judicial district, or released, *upon application and agreement of the parties,* for the purpose of community-based outpatient treatment. *A person detained in jail under this section shall be detained therein no more than forty-eight (48) hours.*

(2) A hospital shall discharge a patient there detained and notify the court and attorneys of record if any authorized staff physician determines that the patient no longer meets the criteria for involuntary hospitalization.

(3) If a patient is discharged by the hospital pursuant to subsection (2), then the proceedings against the patient shall be dismissed.

(4) The release of the person pursuant to subsection (1) for the purpose of community-based outpatient treatment does not terminate the proceedings against the person, and the court ordering such release may order the immediate detention of the person at any time with or without notice if the court believes *from an affidavit filed with the court* that it is to the best interest of the person or others that the person be detained pending the final hearing, *which shall be held within twenty-one (21) days of the person's further detention.*

(5) If the person is released pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment, the final hearing may be continued for a period not to exceed sixty (60) days, if a provider of outpatient care accepts the respondent for specified outpatient treatment. Community-based outpatient treatment may be ordered for an additional period not to exceed sixty (60) days upon application and agreement of the parties.

Section 9. KRS 202A.181 is amended to read as follows:

(1) An authorized staff physician may release an involuntary patient on convalescent leave status when the physician concludes that the patient would not present a danger or a threat of danger to self or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status shall include notification to the hospitalizing court. Release on convalescent leave status does not terminate the involuntary hospitalization order and shall include provisions for *the development of a treatment plan jointly by the hospital and by a provider of outpatient care for follow-up care by the provider and for the continual monitoring of that patient's condition by the provider* [~~a continuing responsibility by the hospital, and will include a plan of treatment by the hospital~~].

(2) The hospital from which such patient is given convalescent leave status may at any time readmit the patient without additional court proceedings. If there is reason to believe that it is to the best interest of the patient to be rehospitalized, the secretary or an authorized staff physician of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall upon the endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the responsible hospital. Notice of rehospitalization under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the rehospitalization if possible.

(3) Release on convalescent leave status shall not apply to persons held under hospitalization orders arising out of *KRS Chapter 504* [~~criminal charges~~] unless consent of the appropriate court is obtained.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

The cabinet may transfer mentally ill or mentally retarded patients between hospitals, between hospitals and forensic psychiatric facilities, between hospitals and mental retardation residential treatment centers, between mental retardation residential treatment centers, and between mental retardation residential treatment centers and forensic psychiatric facilities. A transfer shall be made upon the mutual agreement of the administrative officer, the officer's designated representative or an authorized staff physician of each facility, if the agreement is based upon one (1) of the following findings by the officers, representatives or physicians:

(1) That the transfer will improve the opportunities of the patient to receive care and treatment most likely to be of benefit to the patient;

(2) That the transfer will permit the patient to receive care and treatment in the least restrictive alternative mode of treatment, considering the degree of danger or threat of danger to self or others which the patient presents; or

(3) That the transfer is part of an individual treatment plan which has been reviewed and approved by a court.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

If a patient undergoing involuntary treatment on an inpatient basis is absent from the hospital without, or in excess of authorization from the hospital staff, the person in charge or that person's designee, may contact the appropriate sheriff or other peace officers who shall take the patient into custody and return the patient to the hospital.

Section 12. KRS 202A.196 is amended to read as follows:

(1) Every hospital approved under the provisions of this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. This review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the patient and his counsel or other representative to discuss *its* [~~their~~] recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the district court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the patient's rights to due process of law, and shall utilize the following factors in reaching its determination:

(a) Whether the treatment is necessary to protect [~~other patients or~~] the patient *or others* [~~himself~~] from harm;

(b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any risk of permanent side effects.

(4) Upon the completion of the hearing, the court shall enter an appropriate judgment.

Section 13. KRS 202A.201 is amended to read as follows:

(1) Whenever an inmate of any penal and correctional institution is reported by the staff of that institution to the corrections cabinet as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the corrections cabinet shall have an examination conducted on such inmate by a physician.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the corrections cabinet, the secretary *of the corrections cabinet* may then *request of the secretary of the cabinet for human resources the inmate's* [~~order his~~] transfer to a hospital or forensic psychiatric facility. *If the secretary of the cabinet for human resources agrees that such a transfer is necessary, the person shall be transferred to a cabinet for human resources facility designated by the secretary of the cabinet for human resources,* where *the person* [~~he~~] shall remain until the staff of the facility which received him advises the secretary *of the corrections cabinet* that *the person's* [~~his~~] condition *is such* [~~has so improved~~] that he may be returned to the institution from which he came, provided that no transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The secretary *of the corrections cabinet* shall then authorize his return. If the prisoner's sentence expires during his stay in the facility, and he is still in need of involuntary hospitalization, then the staff of the facility shall petition the applicable district court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) *Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the secretary shall:*

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the corrections cabinet, except upon a finding, not arbitrarily made, of good cause for not permitting such presentation;

(d) Provide an independent decisionmaker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility his legal status as a prisoner shall remain unchanged

until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the corrections cabinet. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 14. KRS 202B.060 is amended to read as follows:

The secretary shall adopt rules and regulations for the proper administration and enforcement of this chapter. Such rules and regulations shall include, but shall not be limited to:

(1) Rights of mentally retarded residents and their families to be adequately informed as to the individual treatment program of the resident;

(2) Rights of residents and their families to assist in the planning of the treatment program of the resident;

(3) Rights of residents and their families under certain conditions to refuse treatment offered to the resident by the hospital or mental retardation residential treatment center;

(4) Rights of residents to maintain, keep and use personal possessions and money;

(5) Rights of residents to meet with friends and relatives;

(6) Rights of residents to receive payment for work performed on behalf of the hospital or mental retardation residential treatment center;

(7) Rights of residents to refuse intrusive treatments, including electroshock or psychosurgery;

(8) Rights of residents to seek relief from participating in their treatment plans;

(9) Rights of residents who are minors to seek relief from actions, approved by their parents or guardians, for or against admission and discharge;

(10) The use of seclusion and other mechanical restraints in hospitals and mental retardation residential treatment centers;

(11) [~~The transfer of residents between hospitals and mental retardation residential treatment centers and between mental retardation residential treatment centers and forensic psychiatric facilities;~~

~~(12)~~] The release of residents to less restrictive alternative modes of treatment on convalescent status; and

(12)[~~(13)~~] Provisions for alternative methods for involuntary hospitalization.

Section 15. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the corrections cabinet;

(2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the cabinet for human resources for the purpose and function of providing inpatient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4)[~~(3)~~] "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to

appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5)[~~(4)~~] "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6)[~~(5)~~] "Mental illness" means substantially impaired capacity to use self-control, judgment or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(7)[~~(6)~~] "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8)[~~(7)~~] "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9)[~~(8)~~] "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to perform examinations;

(10)[~~(9)~~] "Treatment" means medication or counseling, therapy, psychotherapy and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" *shall* [~~does~~] not include electroshock therapy or psychosurgery; and

(11)[~~(10)~~] "Treatment facility" means an institution or part thereof, approved by the cabinet for human resources, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an in-patient or out-patient basis, or both.

Section 16. KRS 504.080 is amended to read as follows:

(1) A court may commit a defendant to a treatment facility *or forensic psychiatric facility* for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat and report on the defendant's mental condition, *except that if the defendant is charged with a felony, and it is determined that inpatient examination or treatment is required, the defendant shall be committed to a forensic psychiatric facility unless the secretary of the cabinet for human resources or the secretary's designee determines that the defendant shall be examined and treated in another cabinet for human resources facility.*

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The cabinet for human resources, if the cabinet or its agent or employe does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

Section 17. KRS 504.110 is amended to read as follows:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility *or a forensic psychiatric facility* and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, *except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the cabinet for human resources or the secretary's designee determines that the defendant shall be treated in another cabinet for human resources facility.* Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 18. KRS 504.140 is amended to read as follows:

If a defendant is found guilty but mentally ill, the court *may* [~~shall~~] appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition at the time of sentencing.

Section 19. KRS 504.150 is amended to read as follows:

(1) The court shall sentence a defendant found guilty but mentally ill at the time of the offense *to the local jail or to the corrections cabinet* in the same manner as a defendant found guilty. If the defendant is found *guilty but* mentally ill [~~at the time of sentencing~~], treatment shall be provided the defendant until *the treating professional determines that such treatment is no longer necessary* [~~he is no longer mentally ill~~] or until expiration of his sentence, whichever occurs first.

(2) Treatment shall be a condition of probation, shock probation, conditional discharge, parole or conditional release so long as the defendant *requires treatment for his mental illness in the opinion of his treating professional* [~~is mentally ill~~].

The Committee Substitute to **HB 48** is as follows:

HB 48, AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky cabinet for human resources;

(4) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(5) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, [~~other than designated forensic psychiatric facilities,~~] approved by the Kentucky cabinet for human resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(6) "Judge" means any judge or justice of the court of justice or a trial commissioner of the district court acting under authority of SCR 5.030;

(7) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve his level of functioning, consistent with accepted professional practice in the least confining setting available;

(8) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(9) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(10) "Petitioner" means a person who institutes a proceeding under this chapter;

(11) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or *a psychologist or psychological assistant* certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, *or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American nurses association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program*; or

(e) A certified social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, *or a certified social worker under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program*;

(12) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(13) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(14) "Secretary" means the secretary of the cabinet for human resources.

Section 2. KRS 202A.021 is amended to read as follows:

(1) The hospitalization of minors alleged to be mentally ill, except those provided for in KRS Chapter 640, shall be governed by KRS Chapter 645.

(2) An authorized staff physician of a hospital may admit for observation, diagnosis, care and treatment any person who is mentally ill or who has symptoms of mental illness and who applies voluntarily therefor.

(3) An authorized staff physician of a hospital shall discharge any voluntary patient who has recovered or whose hospitalization the staff physician determines to be no longer necessary or advisable.

(4) A voluntary patient shall be released upon the patient's written request unless further detained under the applicable provisions of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, if the hospital to be utilized is one (1) operated by the cabinet, the qualified mental health professional shall be a staff member of a regional community mental or mental retardation program.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further detained under the applicable provisions of this chapter.

(3) Any person admitted to the hospital under subsection (1) of this section or released under subsection (2) of this section shall be transported to and from such person's home county by the sheriff of that county.

(4) A person who has been detained under this section shall not remain in jail in excess of forty-eight (48) hours pending evaluation and transportation to the hospital.

Section 4. KRS 202A.041 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge *shall, unless either the court or one (1) of the parties objects, implement the procedures as provided in Section 3 of this Act and order the person to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as provided in Section 3 of this Act shall be carried out. Otherwise, the court* shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.

(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within *six (6)* [~~five (5)~~] days from the date of arrest (excluding weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.

(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parent(s), or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.

(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.

(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.

(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order.

Section 5. KRS 202A.051 is amended to read as follows:

(1) Proceedings for sixty (60) days or three hundred sixty (360) days involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in district court.

(2) *The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."*

(3) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, commonwealth attorney, spouse, relative, friend or guardian of the individual concerning whom the petition is filed.

(4)[~~(3)~~] The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown;

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally ill and presents a danger or threat of danger to self, family or others if not restrained; and

(g) If the petition seeks a three hundred sixty (360) day involuntary hospitalization of the respondent, the petition shall further set forth that the respondent has been hospitalized *in a hospital or a forensic psychiatric facility,* for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months.

(5)[~~(4)~~] Upon receipt of the petition the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with such examination.

(6)[~~(5)~~] If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court *shall, unless either the court or one (1) of the parties objects, implement the procedures provided in Section 3 of this Act and order the individual to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as set forth in Section 3 of this Act shall be carried out. Otherwise, the court* shall:

(a) Set a date for a preliminary hearing;

(b) Notify the respondent, his legal guardian, if any, and if known, and his spouse, parent(s), or nearest relative or friend concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent;

(c) Cause the respondent to be examined without unnecessary delay, by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health *professionals* [~~professional~~] shall certify within twenty-four (24) hours (excluding weekends and holidays) their findings.

(7)[~~(6)~~] (a) If the respondent is being presently detained under the provisions of this chapter, the court may order further detention of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently detained under the provisions of this chapter, the court may issue a warrant for the arrest of the respondent commanding therein that the respondent be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician.

(8)[~~(7)~~] When the court is authorized to issue a warrant for the arrest of the respondent, the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place therein specified where the respondent shall be there examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing. If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, a warrant may then be issued.

(9)[~~(8)~~] If upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing to determine if the respondent should be involuntarily hospitalized.

(10)[~~(9)~~] If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from any detention.

(11)[~~(10)~~] If upon completion of the final hearing, the court finds the respondent should be involuntarily hospitalized, the court shall order the respondent hospitalized in a hospital for *a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred and sixty (360) consecutive days from the date of the court order, whatever was* the period of time that was requested in the petition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A respondent who has been ordered involuntarily hospitalized following the preliminary hearing shall have the venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is hospitalized.

(2) The court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

Section 7. KRS 202A.076 is amended to read as follows:

(1) The preliminary hearing need not be formal and may include the receiving of the qualified mental health *professionals'* [~~professional's~~] reports as evidence. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses who appear and testify against him. The court may exclude all persons not necessary for the conduct of the hearing. The respondent and his attorney may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent

shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. *Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing* [~~The court shall impanel a jury for the final hearing unless the respondent and his attorney waive respondent's right to a jury trial~~].

Section 8. KRS 202A.081 is amended to read as follows:

(1) Following the preliminary hearing but *prior to the completion of* [~~pending~~] the final hearing, the court may order the person detained in jail, or in a hospital approved by the secretary for such purpose for the committing judicial district, or released, *upon application and agreement of the parties*, for the purpose of community-based outpatient treatment. *A person detained in jail under this section shall be detained therein no more than forty-eight (48) hours.*

(2) A hospital shall discharge a patient there detained and notify the court and attorneys of record if any authorized staff physician determines that the patient no longer meets the criteria for involuntary hospitalization.

(3) If a patient is discharged by the hospital pursuant to subsection (2), then the proceedings against the patient shall be dismissed.

(4) The release of the person pursuant to subsection (1) for the purpose of community-based outpatient treatment does not terminate the proceedings against the person, and the court ordering such release may order the immediate detention of the person at any time with or without notice if the court believes *from an affidavit filed with the court* that it is to the best interest of the person or others that the person be detained pending the final hearing, *which shall be held within twenty-one (21) days of the person's further detention.*

(5) If the person is released pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment, the final hearing may be continued for a period not to exceed sixty (60) days, if a provider of outpatient care accepts the respondent for specified outpatient treatment. Community-based outpatient treatment may be ordered for an additional period not to exceed sixty (60) days upon application and agreement of the parties.

Section 9. KRS 202A.181 is amended to read as follows:

(1) An authorized staff physician may release an involuntary patient on convalescent leave status when the physician concludes that the patient would not present a danger or a threat of danger to self or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status shall include notification to the hospitalizing court. Release on convalescent leave status does not terminate the involuntary hospitalization order and shall include provisions for *the development of a treatment plan jointly by the hospital and by a provider of outpatient care for follow-up care by the provider and for the continual monitoring of that patient's condition by the provider* [~~a continuing responsibility by the hospital, and will include a plan of treatment by the hospital~~].

(2) The hospital from which such patient is given convalescent leave status may at any time readmit the patient without additional court proceedings. If there is reason to believe that it is to the best interest of the patient to be rehospitalized, the secretary or an authorized staff physician of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall upon the endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the responsible hospital. Notice of rehospitalization under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the rehospitalization if possible.

(3) Release on convalescent leave status shall not apply to persons held under hospitalization orders arising out of *KRS Chapter 504* [~~criminal charges~~] unless consent of the appropriate court is obtained.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may transfer mentally ill or mentally retarded patients between hospitals, between hospitals

and forensic psychiatric facilities, between hospitals and mental retardation residential treatment centers, between mental retardation residential treatment centers, and between mental retardation residential treatment centers and forensic psychiatric facilities. A transfer shall be made upon the mutual agreement of the administrative officer, the officer's designated representative or an authorized staff physician of each facility, if the agreement is based upon one (1) of the following findings by the officers, representatives or physicians:

(a) That the transfer will improve the opportunities of the patient to receive care and treatment most likely to be of benefit to the patient;

(b) That the transfer will permit the patient to receive care and treatment in the least restrictive alternative mode of treatment, considering the degree of danger or threat of danger to self or others which the patient presents; or

(c) That the transfer is part of an individual treatment plan which has been reviewed and approved by a court.

(2) The patient or his guardian or designated family member prior to transfer, shall receive notice of said proposed transfer and shall be allowed to challenge the transfer as part of his individual treatment plan under the provisions of KRS 202A.191, 202A.196, and KRS 210.270.

(3) In an emergency situation where the patient presents a danger of serious injury or death to self or others within the institution so as to require immediate transfer to a more secure facility and which condition cannot be treated or resolved within a reasonable period of time in the present facility, the secretary may immediately transfer the patient to a more secure facility while the appeal provisions described in subsection (2) of this Section are being carried out. In this event counsel shall be provided to the patient within three (3) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

If a patient undergoing involuntary treatment on an inpatient basis is absent from the hospital without, or in excess of authorization from the hospital staff, the person in charge or that person's designee, may contact the appropriate sheriff or other peace officers who shall take the patient into custody and return the patient to the hospital.

Section 12. KRS 202A.196 is amended to read as follows:

(1) Every hospital approved under the provisions of this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. This review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the patient and his counsel or other representative to discuss *its* [~~their~~] recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the district court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the patient's rights to due process of law, and shall utilize the following factors in reaching its determination:

(a) Whether the treatment is necessary to protect [~~other patients or~~] the patient *or others* [~~himself~~] from harm;

(b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any risk of permanent side effects.

(4) Upon the completion of the hearing, the court shall enter an appropriate judgment.

Section 13. KRS 202A.201 is amended to read as follows:

(1) Whenever an inmate of any penal and correctional institution is reported by the staff of that institution to the corrections cabinet as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the corrections cabinet shall have an examination conducted on such inmate by a physician.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the corrections cabinet, the secretary *of the corrections cabinet* may then *request of the secretary of the cabinet for human resources the inmate's* [~~order~~ ~~his~~] transfer to a hospital or forensic psychiatric facility. *If the secretary of the cabinet for human resources agrees that such a transfer is necessary, the person shall be transferred to a cabinet for human resources facility designated by the secretary of the cabinet for human resources,* where *the person* [~~he~~] shall remain until the staff of the facility which received him advises the secretary *of the corrections cabinet* that *the person's* [~~his~~] condition *is such* [~~has~~ ~~so~~ ~~improved~~] that he may be returned to the institution from which he came, provided that no transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The secretary *of the corrections cabinet* shall then authorize his return. If the prisoner's sentence expires during his stay in the facility, and he is still in need of involuntary hospitalization, then the staff of the facility shall petition the applicable district court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) *Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the secretary shall:*

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the corrections cabinet, except upon a finding, not arbitrarily made, of good cause for not permitting such presentation;

(d) Provide an independent decisionmaker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the corrections cabinet. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 14. KRS 202B.060 is amended to read as follows:

The secretary shall adopt rules and regulations for the proper administration and enforcement of this chapter. Such rules and regulations shall include, but shall not be limited to:

(1) Rights of mentally retarded residents and their families to be adequately informed as to the individual treatment program of the resident;

(2) Rights of residents and their families to assist in the planning of the treatment program of the resident;

(3) Rights of residents and their families under certain conditions to refuse treatment offered to the

resident by the hospital or mental retardation residential treatment center;

(4) Rights of residents to maintain, keep and use personal possessions and money;

(5) Rights of residents to meet with friends and relatives;

(6) Rights of residents to receive payment for work performed on behalf of the hospital or mental retardation residential treatment center;

(7) Rights of residents to refuse intrusive treatments, including electroshock or psychosurgery;

(8) Rights of residents to seek relief from participating in their treatment plans;

(9) Rights of residents who are minors to seek relief from actions, approved by their parents or guardians, for or against admission and discharge;

(10) The use of seclusion and other mechanical restraints in hospitals and mental retardation residential treatment centers;

(11) [~~The transfer of residents between hospitals and mental retardation residential treatment centers and between mental retardation residential treatment centers and forensic psychiatric facilities;~~

~~(12)~~] The release of residents to less restrictive alternative modes of treatment on convalescent status; and

(12)[~~(13)~~] Provisions for alternative methods for involuntary hospitalization.

Section 15. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the corrections cabinet;

(2) *"Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the cabinet for human resources for the purpose and function of providing inpatient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;*

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4)[~~(3)~~] "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5)[~~(4)~~] "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6)[~~(5)~~] "Mental illness" means substantially impaired capacity to use self-control, judgment or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(7)[~~(6)~~] "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8)[~~(7)~~] "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible

to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9)[~~(8)~~] "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to perform examinations;

(10)[~~(9)~~] "Treatment" means medication or counseling, therapy, psychotherapy and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" *shall* [~~does~~] not include electroshock therapy or psychosurgery; and

(11)[~~(10)~~] "Treatment facility" means an institution or part thereof, approved by the cabinet for human resources, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an in-patient or out-patient basis, or both.

Section 16. KRS 504.080 is amended to read as follows:

(1) A court may commit a defendant to a treatment facility *or forensic psychiatric facility* for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat and report on the defendant's mental condition, *except that if the defendant is charged with a felony, and it is determined that inpatient examination or treatment is required, the defendant shall be committed to a forensic psychiatric facility unless the secretary of the cabinet for human resources or the secretary's designee determines that the defendant shall be examined and treated in another cabinet for human resources facility.*

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The cabinet for human resources, if the cabinet or its agent or employe does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

Section 17. KRS 504.110 is amended to read as follows:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility *or a forensic psychiatric facility* and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, *except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the cabinet for human resources or the secretary's designee determines that the defendant shall be treated in another cabinet for human resources facility.* Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 18. KRS 504.140 is amended to read as follows:

If a defendant is found guilty but mentally ill, the court *may* [~~shall~~] appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition at the time of sentencing.

Section 19. KRS 504.150 is amended to read as follows:

(1) The court shall sentence a defendant found guilty but mentally ill at the time of the offense *to the local jail or to the corrections cabinet* in the same manner as a defendant found guilty. If the defendant is found *guilty but* mentally ill [~~at the time of sentencing~~], treatment shall be provided the defendant until *the treating professional determines that such treatment is no longer necessary* [~~he is no longer mentally ill~~] or until expiration of his sentence, whichever occurs first.

(2) Treatment shall be a condition of probation, shock probation, conditional discharge, parole or conditional release so long as the defendant *requires treatment for his mental illness in the opinion of his treating professional* [~~is mentally ill~~].

Section 20. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker and other professionals, at least one (1) of whom is a qualified mental health professional, and may include the resident, the resident's family, or the guardian;

(2) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(3) "Mental retardation residential treatment center" means a residential treatment facility approved by the department for the evaluation, care and treatment of mentally retarded persons;

(4) "Qualified mental retardation professional" means:

(a) A psychologist licensed under the provisions of KRS Chapter 319, who has either one (1) year of specialized training for work with mentally retarded persons or one (1) year of clinical experience with mentally retarded persons;

(b) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one (1) year of specialized training for work with mentally retarded persons;

(c) A certified social worker licensed under the provisions of KRS Chapter 335 or accredited by the academy of certified social workers, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one (1) year of specialized training for work with mentally retarded persons;

(d) A psychologist *or a psychological assistant* with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one (1) year of specialized training for work with mentally retarded persons; and

(e) Other professional persons with similar training and experience who are qualified according to regulations promulgated by the secretary to participate in seventy-two (72) hour involuntary hospitalization procedures under this chapter;

(5) "Resident" means a person under care or treatment in a mental retardation residential treatment

center pursuant to the provisions of this chapter; and

(6) All terms defined in KRS Chapter 202A shall have the same meaning when used in this chapter.

The Committee on Health and Welfare reported **HB 340** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 340, AN ACT relating to physically disabled adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.400 is amended to read as follows:

It is the intent of the general assembly that moneys appropriated in Acts 1980, Ch. 238, Sec. 4 be utilized only to initiate the statewide senior *and physically disabled adult* [~~citizen~~] discount program and that, after a period of two (2) years, the program be self-sustaining and no further public funds should be expended thereon.

Section 2. KRS 209.410 is amended to read as follows:

As used in KRS 209.400 and 209.420, unless the context otherwise requires:

(1) *"Physically disabled adult" means a person, eighteen (18) years of age or older, with a physical condition, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.*

(2) "Senior citizen" means a person sixty-five (65) years of age or older;

(3)[~~(2)~~] "Statewide senior *and physically disabled adult* [~~citizen~~] discount program" means a program to provide senior *and physically disabled adults* [~~citizens~~] discounts on retail goods and services from merchants throughout the state.

Section 3. KRS 209.420 is amended to read as follows:

(1) There is established within the cabinet for human resources a statewide senior *and physically disabled adult* [~~citizen~~] discount program for the purpose of making retail goods and services available at reduced rates to the Commonwealth's senior citizens.

(2) Program participation shall be voluntary and free. No fees, dues or other charges shall be assessed by the cabinet nor required of the merchants or senior *or physically disabled adult* citizens who choose to participate. The cabinet shall invite retail merchants to participate in the program by extending discounts on their merchandise or services to *physically disabled adults and* citizens sixty-five (65) years of age and older. The conditions and rate of the discounts shall be determined by the participating businesses. Persons sixty-five (65) years of age *and physically disabled adults* shall be eligible to participate in the program by presenting valid proof of age *or a statement from a licensed physician that the person is physically disabled* to participating businesses.

(3) The secretary of the cabinet shall make such regulations as necessary to provide program identification for participating merchants and senior citizens lacking proof of age, informational brochures, directories of participating businesses and other printed materials essential to the implementation and promotion of the program.

The Committee on Natural Resources and Environment reported **HB 289** and **HJR 31** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to mining regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.201 is amended to read as follows:

(1) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons *underground and public roads and persons aboveground* from falls of the roof or ribs. *For adequate control of the roof and ribs underlying a public road, the commissioner shall require permanent supports of masonry or steel.* A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner shall be adopted and set out in printed form within six months after June 16, 1972. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished the commissioner or his authorized representative and shall be available to the miners and their representatives.

(2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(3) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the mine as the commissioner may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(4) When installation of roof bolts is permitted, such roof bolts shall be tested in accordance with the approved roof control plan.

(5) Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced workmen and only where adequate temporary support is provided.

(6) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

HJR 31, A JOINT RESOLUTION creating the Citizens Task Force on Development of the Kentucky River.

WHEREAS, the Kentucky River has provided the Commonwealth with a natural recreation and tourist attraction for water enthusiasts, naturalists, sportsmen, and boaters; and

WHEREAS, Kentucky River water provides a natural resource essential for the development of industry and commerce; and

WHEREAS, the Kentucky River Task Force report of December 1987 states "......there is an untapped potential for tourism centered around the Kentucky River" based upon the Tourism Cabinet's report ".....on the market potential for recreational use of the Kentucky River between Pleasant Hill and Boonesborough, Kentucky."; and

WHEREAS, the same Kentucky River Task Force report recommends the 1988 General Assembly ".....authorize the acceptance of ownership from the U.S. Army Corps of Engineers by the Commonwealth of Kentucky of locks and dams 5-14..";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor appoint ten persons to the Citizens Task Force on Development of the

Kentucky River. These persons shall be experienced in tourism, recreation, commercial development, or industrial development. Five of the ten members shall reside in counties abutting the main stem of the Kentucky River.

Section 2. That the purpose of the Citizens Task Force on Development of the Kentucky River shall be to encourage the recreational, tourism, commercial, and industrial development of the Kentucky River.

Section 3. That the Bluegrass Area Development District, Kentucky River Area Development District, and the Northern Kentucky Area Development District shall provide the necessary staff and administrative support facilities for the task force.

Section 4. That the task force shall report to the Governor and the Legislative Research Commission by July 1, 1989.

The Committee on State Government reported **HB 347**, **HB 369** with Committee Amendment attached thereto, **HB 370** with Committee Substitute and Committee Amendments attached thereto, and **HB 453** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 347, AN ACT relating to the promotion of voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall implement an annual statewide essay contest for students in grades nine (9) through twelve (12) and an annual statewide slogan contest, each to be relative to voting and registration. The secretary of state shall publicize the contests, present awards or certificates to the essay winner in each grade level and to the slogan contest winner in a public ceremony, and provide appropriate publicity for the winning entries.

(2) The secretary of state shall solicit sponsorship for the essay and slogan contests so that, in addition to awards or certificates, winners shall receive the following amounts, as funds are available from sponsors:

(a) Essay contest winner in each grade, a one hundred dollar ($100) United States savings bond; and

(b) Slogan contest winners, one thousand dollars ($1,000) to the first place winner; five hundred dollars ($500) to the second place winner; and two hundred fifty dollars ($250) to the third place winner.

(3) The secretary of state shall report its efforts toward development of sponsorship to the legislative research commission annually beginning in 1988. The report shall be presented at the October meeting, or the first meeting conducted after October if no meeting of the legislative research commission is held during that month.

Section 2. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) Except during implementation of the initial statewide registration, the county board of elections shall cause all registration to be closed the thirty (30) days prior to, and the five (5) days following, any primary or general election, and the ten (10) days prior to any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held.

(3) In all counties the county clerk, when authorized by the county board, shall receive registration, transfers, or change of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 must be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice must be given to the county executive committee of

each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the armed forces, or a dependent of members of the armed forces; or

(d) By such other methods of registration, or reregistration, as approved by the state board of elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county board of elections, which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the state board of elections, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. Such individual or group shall return these completed forms to the county clerk for official registration by the county clerk.

(7) The county clerk shall provide voter registration forms to each principal or assistant principal of every public high school, each area vocational school, and upon request, private schools, who shall designate a person in each school who shall be responsible for informing students and school personnel of the availability of the registration forms and assist them in registering with the party of their choice. The completed forms shall be returned to the county clerk, for official registration by the county clerk.

(8) The county clerk shall provide voter registration cards which shall be made available where motor vehicle operator's licenses are issued. Personnel who issue such licenses shall ask each person seeking to obtain or renew a license whether that person is a registered voter. Each person who replies that he is not registered shall be given a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration.

HB 369, AN ACT relating to the construction of local detention space.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky local corrections facilities construction authority special fund is established in the state treasury for the purpose of construction or renovation of local jail facilities to increase the number of jail beds available for the use of state prisoners.

(2) The fund shall consist of two and seven tenths percent (2.7%) of the fines and forfeitures received by the court of justice in criminal cases. Moneys shall be credited to the fund monthly by the state treasurer.

(3) Moneys in the fund shall be expended only in those counties which agree to contract with the state for full utilization of new or renovated jail space for state prisoners in the following manner:

(a) For the first year one hundred percent (100%) of the jail beds created by such construction or renovation shall be made available for use by state prisoners.

(b) During subsequent years the percentage of beds requested by the state and paid for by the state, by contract, shall be made available for use by state prisoners.

(c) The method of payment shall be that the local jail shall receive a daily prisoner per diem which shall be adjusted upward by one three hundred sixty-fifth (1/365th) of one hundred percent (100%) of the annual debt

service as computed by the Kentucky local corrections facilities construction authority.

(4) The authority shall issue such administrative regulations as may be necessary to carry out the provisions of this section.

The Committee Amendment No. 1 to **HB 369** is as follows:

Amend printed copy of **HB 369** on page 1, line 6, by inserting after "*facilities*" the following: "*through the issuance of revenue bonds*"; and

On page 1, line 9, by inserting after "*fines*" ", *fees*" and by inserting after "*forfeitures*" the following:

"*, excluding the state jail fund, crime victims' fund, public defender fund and DUI service fees,*"

HB 370, AN ACT relating to local corrections reform.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the corrections cabinet for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the corrections cabinet with directions that the sentence be carried out according to law.

(4) Any person convicted of a Class D felony after January 1, 1989, shall serve his term in a county jail unless specifically excluded by subsection (5) of this section.

(5) The state corrections cabinet and the Kentucky jailers association shall jointly develop by September 1, 1988, a classification system, including procedures for review and reclassification, to assess the custody level of all Class D felons. Any revision of policies and procedures shall be approved jointly by the corrections cabinet and the Kentucky jailers association.

(a) Corrections cabinet probation and parole staff shall classify each Class D felon within fourteen (14) days of conviction and review classification at a minimum of every six (6) months or with cause.

(b) If the Class D felon is sentenced to a term of imprisonment, he shall serve that term in a county jail unless the classification or reclassification process indicates:

1. That the felon signs a request to serve time in a state prison;

2. That the felon is other than minimum or medium custody;

3. That the felon is an escape risk; or

4. That the felon is dangerous to himself or others.

(6) Class D felons, conditional releasees, and conditional parolees serving their time in a local jail shall be considered state prisoners pursuant to subsection (10) of this section and the corrections cabinet shall pay the jail in the county of conviction a per diem pursuant to KRS 431.215 and a schedule established in the appropriations bill or its workpapers but to be not less than eighteen dollars ($18) per day per person for each

prisoner, payment to begin the day of conviction or the day of the entering of a guilty plea and ending the day that the prisoner is released or transferred to a state prison.

(7) In the event that a state prisoner for whom payment is being made is not actually confined in the county jail of the county of conviction the county of conviction shall transfer the funds received from the state to the county in which the prisoner is actually being held and such funds shall be placed in the jail budget. In the event that the receiving county is entitled to receive additional funding for state prisoners pursuant to subsection (9) of this section then the receiving county may apply to the state for the additional funds required, if appropriate. No additional charges shall be made either to the state or the sending county by a jail that receives state prisoners.

(8) The state shall pay for all controlled intake prisoners, parole violators, felony probation violators, and shock probation violators held in the county jail an amount that is four dollars ($4) more than the basic fee, plus adjustments allowed by law, than that for Class D felons and prereleasees. The state shall pay the jail the per diem for controlled intake prisoners beginning the day of conviction or the entering of a guilty plea and for parole violators, felony probation violators and shock probation violator from the date they are lodged in the jail. These groups of prisoners shall be transferred to a state institution within thirty (30) days of final sentencing.

(9) In the event that the jail's direct operating costs, excluding capital construction, exceed eighteen dollars ($18) per day, the county jailer may petition the corrections cabinet for an adjustment. If the excess cost is supported, the daily per diem for state prisoners shall be adjusted to the actual cost of operation.

(10) Class D felons serving their time in a local jail shall be considered state prisoners only to the extent that their upkeep is the financial responsibility of the state pursuant to subsection (6) of this section for prisoner state pay and for the purposes of calculating sentence enhancement or reduction pursuant to KRS 532.120. The corrections cabinet and the Kentucky jailers association shall jointly develop by September 1, 1988, policies and procedures for all other aspects of prisoner care, security, supervision, and movement. Any revision of policies and procedures shall be approved by the Kentucky jailers association.

Section 2. KRS 532.210 is amended to read as follows:

(1) Any misdemeanant may petition the sentencing court for an order directing that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration. Such petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the misdemeanant's sentence.

(2) The sentencing judge shall study the record of all persons petitioning for home incarceration and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the county jailer or misdemeanor supervision department;

(b) Conduct hearings on the desirability of granting home incarceration;

(c) Impose on the home incarceree such conditions as are fit, including restitution;

(d) Order that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration at whatever time or intervals, consecutive or non-consecutive, as the court shall determine. The time actually spent in home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to this chapter whichever is the shorter;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of home incarceration, conduct hearings on such matters, and order reimprisonment in the county jail upon proof of violation; and

(f) Grant final discharge from incarceration.

(3) All home incarcerees shall execute a written agreement with the court setting forth all of the conditions

of home incarceration. The order of home incarceration shall incorporate that agreement and order compliance with its terms. The order and agreement shall be transmitted to the supervising authority and to the appropriate jail official.

(4) Time spent in home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to this chapter.

(5) Home incarcerees shall be under the supervision of the county jailer except in counties establishing misdemeanor supervision departments, wherein they shall be under the supervision of such departments. Home incarcerees shall be subject to the decisions of such authorities during the period of supervision. Fees for supervision or equipment usage shall be paid directly to the *county jailer and shall be placed in the jail budget* [~~supervising authority~~].

Section 3. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the state treasury a fee per day beginning on the [~~fifth~~] day *of conviction or entering a guilty plea* [~~following the day on which judgment was rendered~~] and ending the day that the defendant is delivered to the penitentiary. *The fee shall be established by the legislature in the appropriations bill or its workpapers but shall be four dollars ($4) per prisoner per day more than that fee, plus adjustments authorized by law, paid for Class D felons serving their term of imprisonment in county jails and equal to that fee paid for community service center or halfway house placements.* The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

(3) The state shall not pay more to place a prisoner in a nonjail qualified community center than to a jail unless the documented costs exceed that of a jail.

Section 4. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A *technical* [~~curriculum~~] advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning *all aspects of jail administration, personnel, training, and facilities design and equipment and administrative regulations relating thereto* [~~the training needs of jailers and jail personnel~~]. *The technical advisory committee shall serve without salary.* The jail staff training program shall be directed and staffed, in coordination with the *school of law enforcement* [~~governmental services center~~] at *Eastern* Kentucky [~~State~~] University, by knowledgeable persons who have sufficient experience, training and education in jail operations. The corrections cabinet shall not charge a fee for training jailers, their deputies or jailers-elect.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to said office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not

apply if the jailer-elect is ill and unable to complete such training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted of a misdemeanor and sentenced to a county jail may receive a deduction of no more than ten (10) days a month from his sentence. The county jailer shall have the authority to deny a prisoner the right to receive a deduction from his sentence, if during the term of imprisonment the prisoner commits any offense or violates the rules of the jail.

(2) The jailer and the fiscal court shall develop criteria for the purpose of computing the amount of time that may be deducted from a misdemeanor's sentence and any prerequisite supporting documentation. The jailer shall document in the jail record the prisoner's conduct in the jail for the purpose of supporting the basis of a prisoner being denied any portion of his good time.

SECTION 6. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet shall develop and administer a conditional release program in which prisoners who are nearing the end of their terms can be placed in a qualified community center for a period not to exceed one (1) year subject to the following terms and conditions:

(1) The conditional releasee shall meet minimum security classification criteria;

(2) The conditional releasee shall be placed in a qualified community center nearest to the community to which he is being released;

(3) All prisoners confined in a state penal institution who are placed in the conditional release program shall be treated equally as to policy and procedure but individualized terms and conditions may be placed upon conditional releasees as may be appropriate;

(4) Offenses and procedures for the revocation of conditional release status shall be uniformly administered;

(5) Actual placement of individual prisoners in the conditional release program shall be contingent upon space being available in a qualified community center.

SECTION 7. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) The parole board and the Kentucky jailers association shall jointly develop and the board shall issue by administrative regulation criteria by which a prisoner in a state penal institution may be designated as a conditional parolee and lodged in a qualified community center prior to his release on parole.

(2) The conditional parole program shall consist of at least the following elements and features and shall be promulgated by administrative regulation:

(a) All prisoners confined in a state penal institution who are placed in a qualified community center shall be treated equally as to policy and procedure but individualized terms and conditions may be placed upon conditional parolees as may be appropriate;

(b) Offenses and procedures for the revocation of conditional parole status shall be uniformly administered;

(c) A person shall not remain on conditional parole status for a period of more than four (4) months;

(d) Actual placement of individual prisoners in the conditional parole program shall be contingent upon space being available in a qualified community center;

(e) Final release from conditional parole status shall depend upon satisfactory adjustment to such status and satisfactory completion of any terms and conditions placed thereon;

(f) Evaluation of prisoners placed in conditional parole status shall be the responsibility of an assigned probation and parole officer and the final release recommendation with regard to such prisoner shall be made by the hearing officer in writing to the parole board. Recommendations made by the hearing officer to the parole board shall not be binding upon the board. The board may accept, decline, or modify the recommendation or send the matter back to the hearing officer for additional information and investigation;

(g) Personal appearances of the prisoner before the parole board shall not be mandatory. Contact with the prisoner, except in extraordinary cases, shall be made by the probation and parole officer or the hearing officer at the facility in which the prisoner is confined. Prisoners shall not be transferred from the facility in which they are confined for hearings or interviews unless they are being returned to a state facility.

Section 8. KRS 439.315 is amended to read as follows:

(1) *Except as provided in KRS 532.210 and 532.220,* a person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the corrections cabinet, or the department of community services and facilities *or a county jailer,* shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. *For those in a home incarceration program under the jailer's supervision all fees shall be paid to the jail budget.*

(2) The fees shall be as follows:

(a) For a felony, not less than five hundred dollars ($500) *to be placed in the jail budget* [~~nor more than two thousand five hundred dollars ($2,500)~~].

(b) For a misdemeanor, not less than one hundred dollars ($100) *to be placed in the jail budget* [~~nor more than five hundred dollars ($500)~~].

(3) The fee may be ordered paid in a lump sum or installments. If the fee is to be paid in a lump sum the person shall not be released from custody until the fee is paid in full. If the fee is to be paid in installments the person may be released on such terms and conditions as are set by the releasing authority.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make such payments and in making this determination the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. The releasing authority may waive the payment of the fee in whole or in part if it finds that any of the following factors exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to pay said fee.

(b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(d) The offender is responsible for the support of dependents, and the payment of said fee constitutes an undue hardship on the offender or his dependents.

(e) Any other factor which may bear upon the defendant's financial capacity to pay said fee.

(6) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay said fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(7) All sums paid by the defendant pursuant to this section shall be paid into the general fund.

(8) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of such release, unless the authority specifically waives the fee, and nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(9) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county involved.

(10) The corrections cabinet and office of community services shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

(11) In counties containing an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release agency of the urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of subsections (2), (3), (4), (5), (6), (8) and (9) of this section. All sums paid by the defendant under this subsection shall be paid into the general fund of the urban-county government in lieu of the payment specified in subsection (7) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the urban county involved. The adult misdemeanant probation and work release agency of the urban-county government shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) The parole board shall institute a hearing officer system using designated local probation and parole staff for the purpose of making parole recommendations to the board in writing on all eligible felons serving their sentences in local jails.

(2) The system shall consist of at least the following elements and features and shall be promulgated by administrative regulation:

(a) There shall be at least one (1) hearing officer per probation and parole district and enough personnel shall be named in each district to handle the anticipated caseload. These persons shall be designated from existing staff and these duties shall be in addition to normal duties;

(b) Policies relating to parole eligibility for state prisoners confined in county jails shall be consistent, insofar as possible, with those for prisoners confined in state facilities;

(c) Personal appearances of the felon before the parole board shall not be mandatory. Contact with the felon, except in extraordinary cases, shall be made by the hearing officer at the facility in which the felon is confined. Prisoners shall not be transferred from the facility in which they are confined to another location for hearings or interviews;

(d) Recommendations made by the hearing officer to the parole board shall not be binding upon the board. The board may accept, decline, or modify the recommendation or send the matter back to the hearing officer for additional information and investigation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

Recognizing that state prisoners housed in county jails remain the primary responsibility of the Commonwealth, for the purposes of any legal action by any state prisoner being held in a county jail, the corrections cabinet *shall provide all necessary legal counsel and shall assume responsibility for any judgment in the same manner and degree as if the prisoner were housed in a state institution.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 71 IS CREATED TO READ AS FOLLOWS:

(1) In those counties where the jail is closed the jailer shall serve as the coordinator of the jail transportation program.

(2) The jailer shall assist the fiscal court in developing the jail transportation program and shall share at least equally with the other transportation personnel in the transportation of jail prisoners.

(3) In developing the jail transportation plan, the fiscal court shall provide for the utilization of a sufficient number of personnel so that no individual transportation officer serves more than forty (40) hours per week, unless such officer is provided with overtime pay in accordance with the wage and hour laws.

Section 12. KRS 71.050 is amended to read as follows:

The jailer is an officer of the circuit and district courts for his county. In any county where there is no jail [~~and the jailer does not transport prisoners~~], the jailer *may* [~~shall~~] serve as a bailiff to the circuit and district courts of the county.

Section 13. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. [~~The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate.~~] The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's residence if owned by the county, and to keep the jailer's residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 14. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) Except as provided in subsection (3) of this section, in all other cases the sheriff of the county where the prisoner is incarcerated shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In any county where there is no jail or the county operates a holdover jail, the fiscal court shall

adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the circuit and district courts of the county as provided for in KRS 71.050. [~~The fiscal court may also require the jailer to serve as custodian of county buildings and grounds as provided for in KRS 67.130.~~]

The Committee Substitute to **HB 370** is as follows:

HB 370, AN ACT relating to local corrections reform.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the corrections cabinet for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the corrections cabinet with directions that the sentence be carried out according to law.

(4) Any person convicted of a Class D felony after January 1, 1989, shall serve his term in a county jail unless specifically excluded by subsection (5) of this section.

(5) The state corrections cabinet and the Kentucky jailers association shall jointly develop by September 1, 1988, a classification system, including procedures for review and reclassification, to assess the custody level of all Class D felons. Any revision of policies and procedures shall be approved jointly by the corrections cabinet and the Kentucky jailers association.

(a) Corrections cabinet probation and parole staff shall classify each Class D felon within fourteen (14) days after final sentencing and review classification at a minimum of every six (6) months or with cause.

(b) If the Class D felon is sentenced to a term of imprisonment, he shall serve that term in a county jail unless the classification or reclassification process indicates:

1. That the felon signs a request to serve time in a state prison;

2. That the felon is other than minimum or medium custody;

3. That the felon is an escape risk; or

4. That the felon is dangerous to himself or others.

(6) Class D felons, conditional releasees, and conditional parolees serving their time in a local jail shall be considered state prisoners pursuant to subsection (10) of this section and the corrections cabinet shall pay the jail in the county of conviction a per diem pursuant to KRS 431.215 and a schedule established in the appropriations bill or its workpapers but to be not less than eighteen dollars ($18) per day per person for each prisoner, payment to begin the day of conviction or the day of the entering of a guilty plea and ending the day that the prisoner is released or transferred to a state prison. The state shall not pay more to place a prisoner in a nonjail qualified community center than eighteen dollars ($18) per day unless direct documented costs exceed eighteen dollars ($18) per day.

(7) In the event that a state prisoner for whom payment is being made is not actually confined in the county jail of the county of conviction the county of conviction shall transfer the funds received from the state to the county in which the prisoner is actually being held and such funds shall be placed in the jail budget. In the event that the receiving county is entitled to receive additional funding for state prisoners pursuant to subsection (9) of this section then the receiving county may apply to the state for the additional funds required, if appropriate. No additional charges shall be made either to the state or the sending county by a jail that receives state prisoners.

(8) The state shall pay for all controlled intake prisoners, parole violators, felony probation violators, and shock probation violators held in the county jail an amount that is four dollars ($4) more than the basic fee, plus adjustments allowed by law, than that for Class D felons and prereleasees. The state shall pay the jail the per diem for controlled intake prisoners beginning the day of conviction or the entering of a guilty plea and for parole violators, felony probation violators and shock probation violator from the date they are lodged in the jail. Controlled intake prisoners shall be transferred to a state institution within forty-five (45) days of final sentencing. Parole violators, felony probation violators and shock probation violators shall be transferred within thirty (30) days of their revocation hearing unless they are qualified for the community service program in which case their movement shall be consistent with the community service center program regulations.

(9) In the event that the jail's direct operating costs, excluding capital construction, exceed eighteen dollars ($18) per day, the county jailer may petition the corrections cabinet for an adjustment. If the excess cost is supported, the daily per diem for state prisoners shall be adjusted to the actual cost of operation. The cabinet and the Kentucky jailers association shall jointly develop and agree on administrative regulations governing the calculation of direct costs.

(10) Class D felons serving their time in a local jail shall be considered state prisoners only to the extent that their upkeep is the financial responsibility of the state pursuant to subsection (6) of this section for prisoner state pay and for the purposes of calculating sentence enhancement or reduction pursuant to KRS 532.120.

Section 2. KRS 532.210 is amended to read as follows:

(1) Any misdemeanant may petition the sentencing court for an order directing that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration. Such petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the misdemeanant's sentence.

(2) The sentencing judge shall study the record of all persons petitioning for home incarceration and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the county jailer or misdemeanor supervision department;

(b) Conduct hearings on the desirability of granting home incarceration;

(c) Impose on the home incarceree such conditions as are fit, including restitution;

(d) Order that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration at whatever time or intervals, consecutive or non-consecutive, as the court shall determine. The time actually spent in home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to this chapter whichever is the shorter;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of home incarceration, conduct hearings on such matters, and order reimprisonment in the county jail upon proof of violation; and

(f) Grant final discharge from incarceration.

(3) All home incarcerees shall execute a written agreement with the court setting forth all of the conditions of home incarceration. The order of home incarceration shall incorporate that agreement and order compliance with its terms. The order and agreement shall be transmitted to the supervising authority and to the appropriate jail official.

(4) Time spent in home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to this chapter.

(5) Home incarcerees shall be under the supervision of the county jailer except in counties *containing a city of the first class* [~~establishing misdemeanor supervision departments, wherein they shall be under the supervision of such departments~~]. Home incarcerees shall be subject to the decisions of *the jailer* [~~such authorities~~] during the period of supervision. Fees for supervision or equipment usage shall be paid directly to the *county jailer and shall be placed in the jail budget* [~~supervising authority~~].

Section 3. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the state treasury a fee per day beginning on the [~~fifth~~] day *of conviction or entering a guilty plea* [~~following the day on which judgment was rendered~~] and ending the day that the defendant is delivered to the penitentiary. *The fee shall be established by the legislature in the appropriations bill or its workpapers but shall be four dollars ($4) per prisoner per day more than that fee, plus adjustments authorized by law, paid for Class D felons serving their term of imprisonment in county jails.* The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

Section 4. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A *technical* [~~curriculum~~] advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning *all aspects of jail administration, personnel, training, and facilities design and equipment and administrative regulations relating thereto* [~~the training needs of jailers and jail personnel~~]. *The technical advisory committee shall serve without salary.* The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training and education in jail operations. The corrections cabinet shall not charge a fee for training jailers, their deputies or jailers-elect.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to said office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete such training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted of a misdemeanor and sentenced to a county jail may receive a deduction of no more than ten (10) days a month from his sentence. The county jailer shall have the authority to deny a prisoner the right to receive a deduction from his sentence, if during the term of imprisonment the prisoner commits any offense or violates the rules of the jail.

(2) The jailer and the fiscal court shall develop criteria for the purpose of computing the amount of time that may be deducted from a misdemeanor's sentence and any prerequisite supporting documentation. The jailer shall document in the jail record the prisoner's conduct in the jail for the purpose of supporting the basis of a prisoner being denied any portion of his good time.

SECTION 6. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet shall develop and administer a community center program in which prisoners who are nearing the end of their terms can be placed in a qualified community center for a period not to exceed sixteen (16) months subject to the following terms and conditions:

(1) The community center inmate shall meet minimum security classification criteria;

(2) The community center inmate shall be placed in the qualified community center nearest to the community to which he is being released unless for security reasons he shall be placed in another qualified center;

(3) Actual placement of individual prisoners in the community center program shall be contingent upon space being available in a qualified community center.

SECTION 7. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) The parole board and the Kentucky jailers association shall jointly develop and the board shall issue by administrative regulation criteria by which a prisoner in a state penal institution may be designated as a conditional parolee and lodged in a qualified community center prior to his release on parole.

(2) The conditional parole program shall consist of at least the following elements and features and shall be promulgated by administrative regulation:

(a) Offenses and procedures for the revocation of conditional parole status shall be uniformly administered;

(b) A person shall not remain on conditional parole status for a period of more than four (4) months;

(c) Actual placement of individual prisoners in the conditional parole program shall be contingent upon space being available in a qualified community center;

(d) Final release from conditional parole status shall depend upon satisfactory adjustment to such status and satisfactory completion of any terms and conditions placed thereon;

(e) Evaluation of prisoners placed in conditional parole status shall be the responsibility of an assigned probation and parole officer and the final release report with regard to such prisoner shall be made by him in writing to the parole board. Reports made by him to the parole board shall not be binding upon the board. The board may ask for additional information from the officer or send the matter back to the hearing officer for additional information and investigation;

(f) Personal appearances of the prisoner before the parole board shall not be mandatory. Contact with the prisoner, except in extraordinary cases, shall be made by the probation and parole officer or the hearing officer at the facility in which the prisoner is confined. Prisoners shall not be transferred from the facility in which they are confined for hearings or interviews unless they are being returned to a state facility.

Section 8. KRS 439.315 is amended to read as follows:

(1) *Except as provided in KRS 532.210 and 532.220,* a person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the corrections cabinet, or the department of community services and facilities *or a county jailer,* shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. *For those in a home incarceration program under the jailer's supervision all program fees shall be paid to the jail budget.*

(2) The fees shall be as follows:

(a) For a felony, not less than five hundred dollars ($500) *to be placed in the jail budget* [~~nor more than two thousand five hundred dollars ($2,500)~~].

(b) For a misdemeanor, not less than one hundred dollars ($100) *to be placed in the jail budget* [~~nor more than five hundred dollars ($500)~~].

(3) The fee may be ordered paid in a lump sum or installments. If the fee is to be paid in a lump sum the person shall not be released from custody until the fee is paid in full. If the fee is to be paid in installments the person may be released on such terms and conditions as are set by the releasing authority.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make such payments and in making this determination the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. The releasing authority may waive the payment of the fee in whole or in part if it finds that any of the following factors exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to pay said fee.

(b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(d) The offender is responsible for the support of dependents, and the payment of said fee constitutes an undue hardship on the offender or his dependents.

(e) Any other factor which may bear upon the defendant's financial capacity to pay said fee.

(6) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay said fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(7) All sums paid by the defendant pursuant to this section shall be paid into the general fund.

(8) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of such release, unless the authority specifically waives the fee, and nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(9) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county involved.

(10) The corrections cabinet and office of community services shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

(11) In counties containing an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release agency of the urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of subsections (2), (3), (4), (5), (6), (8) and (9) of this section. All sums paid by the defendant under this subsection shall be paid into the general fund of the urban-county government in lieu of the payment specified in subsection (7) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the urban county involved. The adult misdemeanant probation and work release agency of the urban-county government shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) The parole board shall institute a system using designated local probation and parole staff for the purpose of making preparole progress reports to the board in writing on all eligible felons serving their sentences in local jails.

(2) The system shall consist of at least the following elements and features and shall be promulgated by administrative regulation:

(a) There shall be at least one (1) probation and parole officer per district to handle the anticipated caseload. These persons shall be designated from existing staff and these duties shall be in addition to normal duties;

(b) Policies relating to parole eligibility for state prisoners confined in county jails shall be consistent, insofar as possible, with those for prisoners confined in state facilities;

(c) Personal appearances of the felon before the parole board shall not be mandatory. Contact with the felon, except in extraordinary cases, shall be made by the probation parole officer assigned to the facility in which the felon is confined. Prisoners shall not be transferred from the facility in which they are confined to another location for hearings or interviews;

(d) Reports made by the probation parole officer to the parole board shall not be binding upon the board. The board may ask for additional information from the officer or send the matter back to the hearing officer for additional information and investigation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

Recognizing that state prisoners housed in county jails remain the primary responsibility of the Commonwealth, for the purposes of any legal action by any state prisoner being held in a county jail, the corrections cabinet shall provide all necessary legal counsel and shall assume responsibility for any judgment in the same manner and degree as if the prisoner were housed in a state institution.

SECTION 11. A NEW SECTION OF KRS CHAPTER 71 IS CREATED TO READ AS FOLLOWS:

(1) In those counties where the jail is closed the jailer shall serve as the coordinator of the jail transportation program.

(2) The jailer shall assist the fiscal court in developing the jail transportation program and shall share

at least equally with the other transportation personnel in the transportation of jail prisoners.

(3) In developing the jail transportation plan, the fiscal court shall provide for the utilization of a sufficient number of personnel so that no individual transportation officer serves more than forty (40) hours per week, unless such officer is provided with overtime pay in accordance with the wage and hour laws.

Section 12. KRS 71.050 is amended to read as follows:

The jailer is an officer of the circuit and district courts for his county. In any county where there is no jail [~~and the jailer does not transport prisoners~~], the jailer *may* [~~shall~~] serve as a bailiff to the circuit and district courts of the county.

Section 13. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. [~~The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate.~~] The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's residence if owned by the county, and to keep the jailer's residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 14. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) Except as provided in subsection (3) of this section, in all other cases the sheriff of the county where the prisoner is incarcerated shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In any county where there is no jail or the county operates a holdover jail, the fiscal court shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the circuit and district courts of the county as provided for in KRS 71.050. [~~The fiscal court may also require the jailer to serve as custodian of county buildings and grounds as provided for in KRS 67.130.~~]

Section 15. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the corrections cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The corrections cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The corrections cabinet shall prepare a report on such information as it obtains. It shall be the duty of the corrections cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and *may* [~~shall~~] have him appear before it, or one (1) or more members for interview and hearing, *except for Class D felons serving their time in jail and community center prisoners who shall be exempted from personal appearances and* except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the corrections cabinet shall provide the necessary assistance and information to the board in order for it to conduct such timely parole reviews.

(5) In addition to or in conjunction with the initial hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than thirty (30) nor more than ninety (90) days' notice: the commonwealth attorney of every county in which the prisoner committed any Class A, B or C felony for which he is imprisoned and all identified victims of such crimes or the next of kin of any victim who is deceased. Notice to the commonwealth attorney shall be by mail to his business office. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the commonwealth attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986 notice to the victims or their next of kin shall be by mail from the parole board to their last known address as provided by the commonwealth attorney to the parole board at the time of incarceration of the prisoner. The notice shall include the time, date and place of the hearing provided for in this subsection, and the name and address of a person to write in the event the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit written comments to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all such comments prior to making its parole decision, provided they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all such comments in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decisions

affecting the prisoner. In addition, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor shall have the right to attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, provided only that such persons shall have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of his intention to attend the hearing. The board shall receive and consider all such comments, shall make a record of them which it shall retain in the prisoner's permanent parole board file and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the parole board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Any hearing provided for in subsections (5) and (6) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of such hearing for reasons of personal safety, in which event the hearing shall be closed.

(8) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the parole board or any of its members, agents or employes.

(9) The unintentional failure by the parole board or any of its members, agents or employes or by a commonwealth attorney or any of his agents or employes to comply with any of the provisions of subsections (5), (6) and (7) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner or any other person.

(10) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the sexual offender treatment program.

(11) Any prisoner who is granted parole after completion of the sexual offender treatment program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the corrections cabinet.

(12) Whenever an order for parole is issued it shall recite the conditions thereof.

The Committee Amendment No. 1 to **HB 370** is as follows:

Amend printed copy of Committee Substitute to **HB 370** on page 1, line 15, after the word *"felony"* by adding the following: *"and receiving a sentence of three (3) years or less"*.

The Committee Amendment No. 2 to **HB 370** is as follows:

Amend printed copy of Committee Substitute to **HB 370** on page 2, by deleting lines 13 and 14 in their entirety.

HB 453, AN ACT relating to campaign contributions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No person who contributes more than one thousand dollars ($1,000) to a gubernatorial candidate shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than one thousand dollars ($1,000) or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky unless said contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of such

entity or the person and his immediate family together own or control ten percent (10%) or more of such entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section, if the money or property contributed together with any other contribution made by such person would exceed the limit on individual campaign contributions. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of one thousand dollars ($1,000) as provided by those subsections, shall apply to a person who makes a total contribution in excess of one thousand dollars ($1,000) as provided by this subsection.

Section 2. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of one hundred dollars ($100) received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate nor committee, nor anyone on their behalf, shall accept more than four thousand dollars ($4,000) contributed by any one (1) person in any one (1) election.

(6) No person shall contribute more than four thousand dollars ($4,000) to any one (1) candidate in any one (1) election.

(7) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(8) No elected statewide official shall actively solicit contributions to retire a campaign debt during his term of office, nor shall such official accept contributions to retire his campaign debt during his term of office from any person receiving payment or compensation for services rendered pursuant to a contract with state government.

(9) No candidate for governor may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate.

Section 3. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who willfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals,

be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that willfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who willfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who willfully violates any provision of KRS 121.110 to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who willfully violates any provision of KRS 121.110 to 121.200, or whose campaign treasurer wilfully violates any provision of KRS 121.110 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the attorney general, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.110 to 121.200.

(12) The commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor

upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Any officeholder who willfully violates the provisions of KRS 121.150(7) shall be subject to removal from office by impeachment.

(14) Prosecution for violation of any provision of KRS 121.110 to 121.200, shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(15) Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(16) Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(17) Any person who willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

(18) Any person who violates any of the provisions of Section 1, subsection (3) of this Act shall be guilty of a Class D felony.

Section 4. This Act shall become effective with the gubernatorial election of 1991.

The Committee Amendment No. 1 to **HB 453** is as follows:

Amend printed copy of **HB 453** on page 4, line 19,

by inserting after "*governor*" the words "*or the immediate family thereof*".

Calendar

HB 311, **HB 323**, **HB 288** and **HB 328** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 422, **HB 367** and **HB 346** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 54, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 54**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to **HB 54**. Agreed.

Representative Lear moved that **HB 54**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 80, Nays 14. (See January 28, 1988, roll call on **HB 54** - Appendix A.)

HB 54, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 54**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 72** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 28, 1988, roll call on **HB 72** - Appendix A.)

HB 72 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 79 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 79** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 28, 1988, roll call on **HB 79** - Appendix A.)

HB 79 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 79** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 226 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 226** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 28, 1988, roll call on **HB 226** - Appendix A.)

HB 226 was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 226** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 232** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 28, 1988, roll call on **HB 232** - Appendix

A.)

HB 232 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 232** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess until 3:15 p.m. for a Majority Caucus meeting in the State Reception Room. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Stumbo moved the adoption of the following Legislative Citations No. 35 and No. 36. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Coach Eddie Sutton for his diligence and support for the Kentucky General Assembly. Not only did Coach Sutton take time from his busy schedule of coaching the winning University of Kentucky Wildcats, but he made his way to the Capitol City through treacherous weather and subzero temperatures to participate in the Legislative Charity Basketball event. His commitment and goodwill is of special importance to the members of the House of Representatives. This prestigious body commends you for your extraordinary efforts, Monday, January 25, 1988. (Sponsored by Representative Stumbo)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Cliff Hagan, University of Kentucky Athletic Director, for his diligence and support for the Kentucky General Assembly. Not only did Cliff Hagan take time from his busy schedule of planning and scheduling for the winning University of Kentucky Wildcats, but he made his way to the Capitol City through treacherous weather and subzero temperatures to participate in the Legislative Charity Basketball event. His commitment and goodwill is of special importance to the members of the House of Representatives. This prestigious body commends you for your extraordinary efforts, Monday, January 25, 1988. (Sponsored by Representative Stumbo)

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of Legislative Citations No. 35 and No. 36. Agreed.

The following members requested that their names be added as Co-Sponsors of Citations 35 and 36: Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Mason, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates.

Representative J. Harper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative J. Harper moved the adoption of the following **HR 54**:

HR 54, A RESOLUTION adjourning the House of Representatives in honor of restaurateur Ed Hasenour.

With deepest respect we pay homage and tribute to the memory of a great Kentuckian, Ed Hasenour.

WHEREAS, Ed Hasenour of Louisville has crossed that final bourne from which no traveller returns;

and

WHEREAS, Ed Hasenour died at the age of 77 last night at Baptist Hospital East; and

WHEREAS, Ed Hasenour operated one of the best known restaurants in Louisville; and

WHEREAS, Ed Hasenour started in the restaurant business in September, 1934, when he and a partner opened a cafeteria at Floyd and Breckinridge Streets behind Male High School; and

WHEREAS, by the following February, Ed Hasenour had bought out his partner; and

WHEREAS, in 1952, Ed Hasenour opened the present restaurant, Hasenours at Barret and Oak; and

WHEREAS, in 1974, Ed Hasenour was named "restaurateur of the year" by the Kentucky Restaurant Association; and

WHEREAS, the ideas for the Derby Festival Balloon Race and Run for the Rose came from Ed Hasenour and his family; and

WHEREAS, in 1979 Ed Hasenour added the Atrium, his glass and greenery addition to the restaurant; and

WHEREAS, Ed Hasenour said the three secrets to his success were quality food, quality service and cleanliness, but added that there were elements of good fortune and several good friends to help along the way;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does express its deepest sense of bereavement and loss upon the passing of Ed Hasenour.

Section 2. That the members of this honorable body commend the loved ones of Ed Hasenour to the solace of the Almighty to help soothe the pain of these dark moments.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky adjourns this day, Thursday, January 28, 1988, it does so in memory and honor of Ed Hasenour.

Section 4. That the Clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to his wife, the former Marcy L. Hukenback.

HR 54 was passed by voice vote.

Representative White moved that the rules be suspended to act upon a Resolution. Agreed.

Representative White moved the adoption of the following **HR 49**:

HR 49. A RESOLUTION commending the Barbourville Community Choir.

WHEREAS, the Barbourville Community Choir is composed of talented citizens who perform with distinction for the benefit of those who enjoy and appreciate music; and

WHEREAS, the Barbourville Community Choir has flourished under the outstanding leadership of Lois Treadway and with the fine talent of pianist, Bruce Martin; and

WHEREAS, the Barbourville Community Choir has been a contributing factor to the cultural enlightenment and enrichment of the citizens of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Barbourville Community Choir; its choir director and accompanying pianist are hereby praised and highly commended for their constant effort resulting in the performance of excellent music for the benefit of the citizens of the Commonwealth.

Section 2. That the House of Representatives is proud to have the Barbourville Community Choir perform in its chamber on January 28, 1988.

Section 3. That the Clerk of the House of Representatives be, and hereby is, directed to send copies of this resolution to Mrs. Lois Treadway, Barbourville City School, Barbourville, Kentucky, 40906.

HR 49 was passed by voice vote.

Representative Barrows moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 44. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and commends the Bluegrass Boys Ranch; its Program Coordinator, Steven DeMers; Chairman of the Board of Directors, Anita Madden; Program Director, Robert Guinn; Guidance Counselor, Robert Rouse; and Teachers, Katherine Porter and David Reber for this first of its kind program for the Commonwealth designed to promote academic progress and accomplishments of gifted young men.

The House of Representatives joins Representative Joe Barrows in saluting this program in its premier year. (Sponsored by Representative Barrows)

Representative Crupper moved that **HR 47** be withdrawn. Agreed.

Representative Crupper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Crupper moved the adoption of the following **HR 50**:

HR 50. A RESOLUTION saluting the Owen County Rural Electric Cooperative Corporation.

WHEREAS, the Owen County Rural Electric Cooperative Corporation, due to the excellent management of Mr. Frank Downing and his predecessors, Mr. Marvin Keith, Mr. Charles Richardson, Mr. Marvin DeBall, Mr. Chester C. Roland, and the dedication of many fine employees has been, in concept and in fact, the energy which has enabled the progress and prosperity enjoyed by its home community; and

WHEREAS, for the past fifty years, the Rural Electric Cooperative Corporation has been instrumental in creating the fine quality of life enjoyed in Owen, Grant, Pendleton, Gallatin, Scott, Boone, Kenton, Campbell, and Carroll Counties; and

WHEREAS, the Rural Electric Cooperative Corporation has been a catalyst for industrial development and commercial growth so fortunately experienced in these counties; and

WHEREAS, the premise of a cooperative alliance for mutual wellbeing is in keeping with the spirit of the Commonwealth's own motto, "United We Stand, Divided We Fall"; and

WHEREAS, Kentucky looks forward to many more successful years of quality service to the people of this region and to a vital and progressive community through the dedication and proven commitment of the

Owen County Rural Electric Cooperative Corporation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does salute the Owen County Rural Electric Cooperative Corporation, its management and employes, for fifty years of exemplary service, and extends its best wishes for the future.

Section 2. That the Clerk is instructed to send a copy of this resolution to Mr. Frank K. Downing, manager of the Owen County Rural Electric Cooperative Corporation, 510 Georgetown Road, Owenton, Kentucky.

HR 50 was passed by voice vote.

Representative Crupper moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Crupper moved the adoption of the following Legislative Citation No. 43. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and cites the Owen County Rural Electric Cooperative, excellent management and dedicated employees for 50 years of exemplary service. This corporation has been instrumental in creating the fine quality of life enjoyed by those in its home community. Further, it has been a catalyst for industrial development and commercial growth.

The House of Representatives join Representative Clay Crupper in saluting this 50 years of exemplary service and extends best wishes for the future. (Sponsored by Representative Crupper)

Representative Barrows moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 34. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and applauds Dr. Joe D. Gormley on your twenty-eight years of service to the Woodford County Schools with eighteen of those years as Superintendent. Beginning in 1959 as a Teacher and Coach, progressing to Counselor, Assistant Principal and then Principal in 1965 and Superintendent in 1969, you have given of your talent and leadership to the education of the young people of Woodford County.

The House of Representatives joins Representative Joe Barrows in commending you for your dedication during your tenure. (Sponsored by Representative Barrows)

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 20, Representative B. Smith; **HB 83**, Representative Robinson; **HB 175**, Representatives Ackerson, Northup; **HB 176**, Representative Hatcher; **HB 248**, Representative Yates; **HB 249**, Representative Yates; **HB 323**, Representative Ackerson; **HB 381**, Representative Meyer; **HB 382**, Representative Meyer; **HB 383**, Representative Meyer; **HB 385**, Representative Meyer; **HB 494**, Representative P. Richardson; **HB 496**, Representatives Hourigan, Napier: **HR 50**, Representative Reinhardt; **HR 54**, Representative Casebier; **HJR 55**, Representatives Ackerson, Napier, Strong;.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 535, by Representatives Little and Deskins: AN ACT relating to dogs.

HB 536, by Representatives Noe, Burch, Blevins, P. Clark, Freibert and Long: AN ACT relating to nurse aide training.

HB 537, by Representatives Hancock, Freibert, K. Harper, Barrows, Arnold, Moberly and T. Jones: AN ACT relating to financial administration.

HB 538, by Representatives Hancock, Freibert, K.Harper, Barrows, Arnold, Moberly and T. Jones: AN ACT relating to refunding bonds.

HB 539, by Representatives Freibert, K. Harper, Hancock, Barrows and Arnold: AN ACT relating to economic development bond fund projects.

HB 540, by Representatives Freibert, K. Harper and Hancock: AN ACT relating to the Kentucky development finance authority.

HB 541, by Representatives Freibert, Allen, Ackerson, Altman, J. Brown, Casebier, Ford, J. Harper, K. Harper, Heleringer, Hoover, Keith, Layman, Lefevers, Lile, Napier, Noland, Northup, Preston, Reinhardt, Siler, Strong, Todd, Turner, Walker and Will: AN ACT relating to campaign practices.

HB 542, by Representatives Maggard and Robinson: AN ACT relating to motor carriers.

HJR 56, by Representatives Morris and Bruce: A JOINT RESOLUTION directing the Finance and Administration Cabinet to set up a pilot project implementing Arkansas' repurchase procurement procedure.

HJR 57, by Representatives Hancock, Freibert, K. Harper, Barrows, Arnold, Moberly and T. Jones: A JOINT RESOLUTION authorizing and establishing a task force to study and recommend a state debt capacity model and debt limits.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Transportation: **HB 83, HB 339, HB 477, HB 461.**

Health and Welfare: **HB 471.**

Judiciary-Criminal: **HB 16.**

Announcements

The Clerk announced the filing of the following Floor Amendment to Bills and Resolutions:

Floor Amendment No. 1 to **HB 23**, by Representative Lear:

Amend printed copy of Committee Substitute to **HB 23** on page 3, line 9, following the word "commission" and before the "." insert the following: "*and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote*"; and

On page 3, line 12, following the word "*effective*" by deleting the following: "*by operation of law without the necessity for the adoption of an ordinance*" and insert in lieu thereof the following: "*and if a recommendation of approval was made by the planning commission, the ordinance of the fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law*"; and

On page 5, line 13, following the word "*commission*" insert the following: "*, fiscal court or legislative body*".

Floor Amendment No. 1 to **HB 233**, by Representative Keith:

Amend printed copy of **HB 233** on page 2, line 2, following the word "student" insert "*academic*";

And on page 2, line 12, delete "*and legal guardians*";

And on page 2, line 14, following the word "student" insert "*academic*";

And on page 2, line 23, following the word "student" insert "*academic*";

And on page 3, line 2, following the word "student" insert "*academic*";

And on page 3, line 5, after the word "student" insert "*academic*".

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 29, 1988.

On the roll call the vote was yeas 84-Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Todd, Turner, Walker, White, Yates. Nays 7-Deskins, Handy, Heleringer, LeMaster, Overstreet, Preston, Seum.

The motion to adjourn was adopted.

FRIDAY, JANUARY 29, 1988

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Wade Hughes, West Frankfort Church of God, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 28, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 44**, **SB 45**, **SB 46**, **SB 55**, **SB 96**, **SB 97**, **SB 99** and **SB 121**.

Representative Ballard moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 58, by Representative Ballard: A RESOLUTION commending Lori Lantrip, Women's World Karate Champion.

Representative Ballard moved the adoption of the following **HR 58**:

HR 58. A RESOLUTION commending Lori Lantrip, Women's World Karate Champion.

WHEREAS, Lori Lantrip has been training in the Martial Arts since the age of four; and

WHEREAS, Lori Lantrip has won or placed in every major Karate tournament in North America; and

WHEREAS, Lori Lantrip has been rated Number-One Women's Light Weight Black Belt Fighter in America for the past six years; and

WHEREAS, Lori Lantrip won the Women's World Karate Championship on October 11, 1987 in Munich, West Germany;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Lori Lantrip is commended for her international achievements in the field of Martial Arts.

Section 2. That the House of Representatives is proud to recognize this outstanding citizen of the Commonwealth.

Section 3. That the Clerk of the House of Representatives be, and hereby is, directed to send copies of this resolution to Ms. Lori Lantrip, Rural Route #2, Box 136A, Madisonville, Kentucky 42431.

HR 58 was adopted by voice vote.

Introductions of Bills and Resolutions

HB 543, by Representatives Moberly: AN ACT relating to maximum class sizes.

Report of Committees

The Committee on Rules reported **HB 288**, **HB 311**, **HB 323** and **HB 328** have been posted for passage in Orders of the Day, February 1, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 1, 1988: **HB 346**, **HB 367**, **HB 422**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 535**, **HJR 51**.

Appropriations and Revenue: **HB 526**, **HB 537**, **HB 538**, **HB 539**, **HB 540**, **HJR 57**, **HB 516**.

Banking and Insurance: **SB 112**, **HB 529**, **HB 531**, **HB 513**, **HB 518**.

Cities: **HB 514**, **HB 515**.

Education: **HB 524**.

Health and Welfare: **HB 521**, **HB 522**, **HB 528**, **HB 536**, **HB 527**.

Judiciary-Civil: **SB 8**, **HB 523**, **HB 532**, **HB 525**.

Judiciary-Criminal: **HB 520**.

Natural Resources and Environment: **HB 519**.

State Government: **HB 530**, **HB 534**, **HB 541**, **HJR 55**, **HJR 56**, **HB 517**.

Transportation: **HB 533**, **HB 542**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 187**.

Energy: **SB 10**, **SCR 1**, **HB 401**.

Calendar

HB 442, **HB 284**, **HB 240**, **HB 294**, **HB 377**, **HB 48**, **HB 289**, **HJR 31**, **HB 347**, **HB 369**, **HB 370** and **HB 453** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HJR 29 and **HB 340** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected.

Ordered referred to the Committee on Rules.

Orders of the Day

HB 67 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 67** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See January 29, 1988 roll call on **HB 67** - Appendix A.)

HB 67 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 67** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved that **HB 3** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 29, 1988 roll call on **HB 3** - Appendix A.)

HB 3 was passed and the title agreed to.

Representative Seum moved that a call of the roll be taken to show co-sponsors of **HB 3**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HB 3**: Ackerson, Adkins, Altman, Ark, Ballard, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, A. Jones, R. Jones, Keith, Kerr, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Morris, Napier, Nett, Noland, Northup, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Yates.

Representative Seum moved that the vote by which **HB 3** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 23, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Substitute to **HB 23**. Agreed.

Representative Meyer moved the adoption of Floor Amendment No. 1 to **HB 23**. Agreed.

Representative Meyer moved that **HB 23**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 14. (See January 29, 1988 roll call on **HB 23** - Appendix A.)

HB 23, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 23**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of Committee Amendment No. 1 to **HB 65**. Agreed.

Representative Adkins moved that **HB 65**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See January 29, 1988 roll call on **HB 65** - Appendix A.)

HB 65, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 65**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 68** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 29, 1988 roll call on **HB 68** - Appendix A.)

HB 68 was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Substitute to **HB 175**. Agreed.

Representative LeMaster moved that **HB 175**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 29, 1988 roll call on **HB 175** - Appendix A.)

HB 175, by way of Committee Substitute as amended, was passed.

Representative LeMaster moved the adoption of the Committee Title Amendment to **HB 175**. Agreed; and the title was agreed to.

Representative LeMaster moved that the vote by which **HB 175**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 302 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 302** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 29, 1988 roll call on **HB 302** - Appendix A.)

HB 302 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 302** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 312** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 29, 1988 roll call on **HB 312** - Appendix A.)

HB 312 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 312** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 233, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keith moved the adoption of Floor Amendment No. 1 to **HB 233**.

Representative Keith moved that **HB 233** be laid on the Clerk's Desk. Agreed.

HJR 27 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **HJR 27** be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See January 29, 1988 roll call on **HJR 27** - Appendix A.)

HJR 27 was passed and the title agreed to.

Representative Meyer moved that the vote by which **HJR 27** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **HB 386**. Agreed.

Representative Heleringer moved that **HB 386**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 29, 1988 roll call on **HB 386** - Appendix A.)

HB 386, as amended, was passed.

Representative Heleringer moved the adoption of the Committee Title Amendment to **HB 386**. Agreed; and the title was agreed to.

Representative Heleringer moved that the vote by which **HB 386**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 544, by Representatives Noe and Mack: AN ACT relating to education.

HB 545, by Representative Burch: AN ACT relating to the department for medicaid services.

HB 546, by Representatives Handy, Riner, Hatcher, Mason and Mack: AN ACT relating to the income tax.

HB 547, by Representative M. Brown: AN ACT relating to hazardous waste.

HR 59, by Representative Cline: A RESOLUTION opposing the rate increases requested by GTE South Incorporated.

HJR 60, by Representatives M. Brown, Deskins, Gray, A. Jones, Richards, B. Jones, Ark, P. Clark, Gedling, LeMaster, Bronger, Heleringer, Long, Seum, Gregory, L. Clark, Ridley, R. Smith, Blevins, Adkins, Donnermeyer, Layman, Johnson, Geveden, Rapier, Lyne, J. Brown, McElroy, Lile, Blandford, Stumbo, Priddy, Casebier, Meyer, Crupper, Siler, Kerr, Walker, Farrow, Noland, J. Harper, Handy, Little, White, Cline, Mack, Mason, Will, Cyrus, Jackson, Allen and Preston: A JOINT RESOLUTION creating a task force for the study of waste management in Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: **HB 400**.

State Government: **HB 228**.

Motions, Petitions and Communications (continued)

Representative Arnold moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Arnold moved the adoption of Legislative Citations No. 37, No. 38, No. 39, No. 40, No. 41 and No. 42. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Kerry Depew for being elected 1988-89 Governor by the Kentucky Youth Assembly sponsored by the State YMCA.

This prestigious body further commends you for your participation as an active member of your church, school and YMCA. In school: your achievements of a 3.7 grade average, a class officer, and a member of numerous clubs and athletic teams. At Church: as an active youth group member, chaperone of youth, and participant in Youth Sunday. In your "Y" activities: participation in Arthritis and Cystic Fibrosis Drives, Committee Parliamentarian and Bill Author for KYA.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Brian

Scantland for being elected Lieutenant Governor by the 1988-89 Kentucky Youth Assembly sponsored by the State YMCA. This honor is bestowed upon you as a result of your hard work and dedication to your school, church, community and YMCA.

The House of Representatives commends you for your commitment to excellence and recognizes your abilities as a leader among your peers.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Shae McEwew for being elected Speaker of the House by the 1988-89 Kentucky Youth Assembly sponsored by the State YMCA. This honor is bestowed upon you as a result of your hard work and dedication to your school, church, community and YMCA.

The House of Representatives commends you for your commitment to excellence and recognizes your abilities as a leader among your peers.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Diedra Glasser for being elected Secretary of State by the 1988-89 Kentucky Youth Assembly sponsored by the State YMCA. This honor is bestowed upon you as a result of your hard work and dedication to your school, church, community and YMCA.

The House of Representatives commends you for your commitment to excellence and recognizes your abilities as a leader among your peers.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Alec Johnson for being elected Attorney General by the 1988-89 Kentucky Youth Assembly sponsored by the State YMCA. This honor is bestowed upon you as a result of your hard work and dedication to your school, church, community and YMCA.

The House of Representatives commends you for your commitment to excellence and recognizes your abilities as a leader among your peers.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Robert Leonard for being elected Chief Justice by the 1988-89 Kentucky Youth Assembly sponsored by the State YMCA. This honor is bestowed upon you as a result of your hard work and dedication to your school, church, community and YMCA.

The House of Representatives commends you for your commitment to excellence and recognizes your abilities as a leader among your peers.

Representative Strong moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Strong moved that he be recorded as voting “yea” on **HJR 27** and **HB 65**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting “yea” on **HB 3**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting “yea” on **HB 67**. Agreed.

Representative Richards moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that his vote be changed from “nay” to “yea” on **HB 175**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendment to Bills and Resolutions:

Floor Amendment No. 1 to **HB 322**, by Representative Hancock:

Amend printed copy of Committee Substitute for **HB 322** as follows:

Amend printed copy of Committee Substitute for **HB 322** on page 1, line 3, by inserting *"(1)"* before *"In"*

On page 1, after line 12, by adding:

"(2) In the case of parents excluding a child from coverage under this section, the insurer shall have the insured sign a form stating that the insured is aware of the provision of KRS 186.590, which provides that the negligence of a minor when driving a motor vehicle shall be imputed to the person who signed the application of the minor for the operator's license."

The Clerk announced the following meetings:

Budget Review Subcommittee on Transportation, February 1, 1988, 1:00 p.m.

Appropriations and Revenue Subcommittee on Human Resources, February 1, 1988, 1:00 p.m.

Budget Review Subcommittee on General Government, February 1, 1988, 2:00 p.m., Room 107.

Adjournment

Representative Stumbo moved that the House adjourn until Monday, February 1, 1988 at 4:00 p.m.

On the roll call the vote was yeas 77 - Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates. Nays 6 - Deskins, Handy, Hatcher, LeMaster, Overstreet, Preston.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 1, 1988

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Morris and A. Jones.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 29, 1988 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 548, by Representative Kerr: AN ACT relating to sexual assault with an object.

HB 549, by Representatives Gray, Morris, R. Smith, Cyrus, Bruce, Castleman, Ridley, B. Jones, Long, Blevins, Adkins and Maggard: AN ACT relating to hazardous positions.

HB 550, by Representatives Lear, Blandford, Rapier, Richards, Burch and B. Jones: AN ACT relating to proposing to amend Sections 231 and 54 of the Kentucky Constitution relating to civil causes of action.

HB 551, by Representatives Lear, Blandford, Farrow, Rapier, Richards, Burch, B. Jones and Seum: AN ACT relating to civil actions.

HB 552, by Representatives Lear, Blandford, Farrow, Rapier, Richards, Burch, B. Jones and Seum: AN ACT relating to insurance and rates thereof.

HCR 61, by Representatives Gray, Lear, Ackerson, Adams, Altman, Ark, Arnold, Ballard, Bronger, J. Brown, M. Brown, Bruce, Casebier, Crupper, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner , Hancock, Handy, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, B. Jones, Keith, Kerr, Layman, Lile, Long, Lyne, Maggard, Mason, Morris, Noland, Northup, O'Brien, Priddy, Reinhardt, P. Richardson, Ridley, Riner, Robinson, Seum, Siler, B. Smith, R. Smith, Strong, Todd, Turner, Walker, White, Will, Worthington, and Yates: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment for submission to the states, to require, with certain exceptions that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment.

HCR 62, by Representatives Lear, Blandford, Farrow, Rapier, Richards, Burch, B. Jones and Seum: A CONCURRENT RESOLUTION requesting and petitioning the Supreme Court of Kentucky to adopt amendments to the Kentucky Rules of Civil Procedure as proposed in the Report of the Kentucky Insurance and Liability Task Force.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 546.**

Education: **HB 543, HB 544, SB 44, SB 45, SB 46, SB 55.**

Energy: **HR 59**.

Health and Welfare: **HB 545**.

Judiciary-Criminal: **SB 96, SB 97, SB 99**.

Natural Resources and Environment: **HB 547, HJR 60**.

State Government: **SB 121**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 522**.

State Government: **HJR 56, SB 2**.

Appropriations and Revenue: **HB 526, HB 538, HB 539,HB 540**.

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 395**.

State Government: **HB 228, HB 291, HB 331**.

Orders of the Day

HB 322, with Committee Substitute, Floor Amendment and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Substitute to **HB 322**. Agreed.

Representative Hancock moved the adoption of Floor Amendment No. 1 to **HB 322**. Agreed.

Representative Hancock moved that **HB 322**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 1, 1988 roll call on **HB 322** - Appendix A.)

HB 322 was passed.

Representative Hancock moved the adoption of the Committee Title Amendment to **HB 322**. Agreed; and the title was agreed to.

Representative Hancock moved that the vote by which **HB 322**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 323, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 323**. Agreed.

Representative LeMaster moved that **HB 323**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 1, 1988 roll call on **HB 323** - Appendix A.)

HB 323, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 323**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 311 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 311** be passed.

On the roll call the vote was: Yeas 66, Nays 22. (See February 1, 1988 roll call on **HB 311** - Appendix A.)

HB 311 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 346 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 346** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 1, 1988 roll call on **HB 346** - Appendix A.)

HB 346 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 346** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 422 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hourigan moved that **HB 422** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 1, 1988 roll call on **HB 422** - Appendix A.)

HB 422 was passed and the title agreed to.

Representative Hourigan moved that the vote by which **HB 422** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 367 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 367** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 1, 1988 roll call on **HB 367** - Appendix A.)

HB 367 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 367** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 553, by Representative Gedling: AN ACT relating to controlled substances.

HB 554, by Representative Clarke: AN ACT relating to the investment of local government funds.

HB 555, by Representative Burch: AN ACT relating to public health.

HB 556, by Representatives Handy and Kerr: AN ACT relating to crimes and punishments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 469**.

Motions, Petitions and Communications (continued)

Representative Noe moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Noe moved the adoption of Legislative Citations No. 46, No. 47 and No. 48. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds THE HARLAN DAILY ENTERPRISE for your outstanding accomplishment of receiving six awards from the Kentucky Press Association's newspaper contest.

This prestigious body joins Representative Roger Noe in commending Publisher Ewell Balltrip, Managing Editor Jeff Phillips and the talented reporters of the HARLAN DAILY ENTERPRISE for this recognition and honor. (Sponsored by Representative Noe)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds NEAL MIDDLETON as you assume the duties of Bureau Chief of the Cumberland Valley Bureau for WYMT-TV in Harlan, Kentucky. This recognition by your peers signifies confidence in your abilities as a television news reporter.

The House of Representatives joins Representative Roger Noe in saluting you on this achievement. (Sponsored by Representative Noe)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds TONY TURNER as you assume the position of News Director and Anchor for WYMT-TV in Hazard, Kentucky. Your years of experience in the news field have qualified you for the important position you now hold and this prestigious body commends you for your dedication, high ideals and hard work. (Sponsored by Representative Noe)

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 41, Representatives Handy; **HB 176**, Representatives Jackson, Riner; **HB 420**, Representative White; **HB 454**, Representative Altman; **HB 502**, Representative Heleringer; **HB 504**, Representative Castleman; **HB 506**, Representatives J. Harper, Napier; **HB 525**, Representative Todd; **HR 50**, Representative Kerr; **HJR 55**, Representatives K. Harper, Walker, Preston.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HB 323**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 323**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendment to Bills and Resolutions:

Floor Amendment No. 1 to **HB 240**, by Representative Northup:

Amend printed copy of Committee Substitute for **HB 240** on page 4, line 13, after the word "official" by inserting a comma "," and then the following:

"*the mayor and legislative body of any city of the fifth or sixth class, so affected, within any county containing a city of the first class*"; and

on page 7, line 16, after the word "mailed" by inserting a comma "," and then the following:

"*to the mayor and legislative body of any city of the fifth or sixth class so affected*".

The Clerk announced the following meeting:

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 2, 1988.

On the roll call the vote was yeas 74-Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Nett, Noe, Noland, Northup, O'Brien, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Stumbo, Turner, Walker, White, Will, Worthington, Yates. Nays 5-Blevins, Casebier, Heleringer, LeMaster, Overstreet.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 2, 1988

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Gerald Watt, Church of Christ, Tompkinsville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Morris and A. Jones.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 1, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 20, SB 35, SB 95, HB 199** and **HB 359.**

Introduction of Bills and Resolutions

HB 557, by Representatives Long, Hancock, Farrow, T. Jones and Barrows: AN ACT relating to the personnel board.

HB 558, by Representatives Farrow and Blandford: AN ACT relating to a patients' compensation fund.

HB 559, by Representative Blevins: AN ACT relating to crimes and punishments.

HB 560, by Representative T. Jones: AN ACT relating to the creation of an economic development advisory commission and making an appropriation therefor.

HB 561, by Representative Mack: AN ACT relating to adults.

HB 562, by Representative Mack: AN ACT relating to long-term care facilities.

HB 563, by Representative Overstreet: AN ACT relating to powers of fiscal courts.

HR 63, by Representative Yates: A RESOLUTION adjourning the House of Representatives in honor of former Senator Danny Yocom.

HCR 64, by Representative Noe: A CONCURRENT RESOLUTION encouraging Kentucky employers and businesses: to hire only those employes who have a high school diploma or its equivalent or who are working toward obtaining either; to develop incentives to encourage employes to complete a high school or GED program; and to develop programs to enable employes to complete a high school or GED program.

HR 65, by Representative Arnold: A RESOLUTION commending the elected officials of the Forty-Fourth Senior Kentucky Youth Assembly and Model Supreme Court.

Report of Committees

The Committee on Rules reported **HB 48, HB 240, HB 284, HB 289, HB 347, HB 377, HB 453** and **HJR 31** have been posted for passage in Orders of the Day, February 3, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 3, 1988: **HB 340, HJR 29**

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 442.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HCR 62, HB 551, HB 552.**

Education: **HB 554.**

Health and Welfare: **HB 553, HB 555.**

Judiciary-Criminal: **HB 548, HB 556.**

State Government: **HCR 61, HB 549, HB 550.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HJR 60.**

Health and Welfare: **HB 480, HB 528.**

Report of Committees

The Committee on Banking and Insurance reported **HB 203** with Committee Substitute attached thereto, **HB 446** with Committee Amendment attached thereto, and **HB 457** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT relating to liability insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Rates for professional, business and government liability insurance shall be based eighty percent (80%) on past and prospective loss experience within Kentucky and twenty percent (20%) on nationwide experience. This section shall not apply to personal liability, automobile liability, or workers' compensation and employers' liability insurance rates.

The Committee Substitute to **HB 203** is as follows:

HB 203, AN ACT relating to liability insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Rates for professional, business and government liability insurance written by any insurer writing exclusively within the Commonwealth of Kentucky shall be based one hundred percent (100%) on past and prospective loss experience within Kentucky. Rates for insurers writing in this Commonwealth as well as in other jurisdictions shall be based at least eighty percent (80%) on past and prospective loss experience within Kentucky and twenty percent (20%) upon the average loss experience within the other jurisdiction in which the insurer writes such insurance. Notwithstanding the foregoing, where a professional, business or government insured has more favorable loss experience, such insured's rate shall be based on the insured's individual loss experience. This section shall not apply to automobile liability or workers' compensation and employers' liability insurance rates.

HB 446. AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-090 is amended to read as follows:

The definition of agent, solicitor or consultant shall not be deemed to include:

(1) Salaried employes in the office of a general lines agent, which employes devote full time to clerical and administrative services, with incidental taking of insurance applications and receiving premiums in the office of the employer agent if the employe does not receive any commissions on such applications and his compensation is not varied by the volume of applications or premiums taken or received by such employe;

(2) The supervising managing general agent (except as defined in KRS 304.9-085) or supervising officer or employe of an insurer who solicits only with duly licensed resident agents of the insurer;

(3) Newsboys and managers of newspaper distribution offices who incidentally take applications of so-called "newspaper accident insurance" and receive premiums in connection therewith;

(4) Employes or other representatives of a group policyholder engaged in enrolling certificate holders and performing other activities in the administration of the group policy, *including credit insurance pertaining to debtor's life, disability, property and unemployment.*

Section 2. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor, including, but not limited to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses as follows:

(a) Covering motor vehicle insurance only;

(b) To persons representing common carriers, as provided in KRS 304.9-170;

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(d) Covering only credit *insurance pertaining to debtor's life, disability, property or unemployment* [~~life and credit health insurance~~];

(e) Covering agents writing mortgage guaranty insurance only;

(f) Covering agents:

1. Writing industrial life insurance only; or

2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if such agent actually collects and services a debit for such insurer;

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;

(h) Covering agents writing crop-hail insurance only; and

(i) Covering agents writing mechanical breakdown insurance only.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 3. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this state, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless such previous license was revoked, suspended, or continuation thereof refused by the commissioner.

(2) In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in such other state as to applicant's license and good conduct in such state.

(3) Persons representing public carriers who, in the course of such representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property.

(4) Persons soliciting or negotiating credit *insurance pertaining to debtor's life, disability, property and unemployment* [~~life and credit health~~] and accident insurance contracts.

(5) An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same kind or kinds of insurance, or has been so licensed within twelve (12) months next preceding date of application for the license, unless such previous license was revoked or suspended or continuation thereof refused by the commissioner.

(6) Any applicant for license covering the same kind or kinds of insurance as to which that applicant shall have held a valid license issued pursuant to Subtitle 9 of this chapter or other applicable Kentucky law which was surrendered, pursuant to KRS 304.2-080 or other applicable law, in order to accept employment with the department of insurance, provided, however, that such applicant shall apply for re-licensing within one (1) year of the date of termination of his employment with the department of insurance.

(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.

Section 4. KRS 304.9-100 is amended to read as follows:

(1) The purpose of a license issued under this subtitle to an agent, or solicitor is to authorize and enable the licensee actively and in good faith to engage in the business of insurance with respect to the general public, and to facilitate the public supervision of such activities in the public interest; and not for the purpose of enabling the licensee to receive a rebate of premium in the form of "commission" or other compensation upon his own interest or upon those of other persons with whom he is closely associated in capacities other than as an insurance agent, or solicitor.

(2) The commissioner shall not grant, renew, continue or permit to exist any license as agent, or solicitor as to any applicant therefor or licensee thereunder if he finds that the license has been or is being or will probably be used by the applicant or licensee principally for the purpose of writing "controlled business," that is:

(a) Insurance on his own interest or those of his family or of his employer; or

(b) Insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, employes or debtors of a partnership, association, or corporation of which he or a member of his family is an officer, director, stockholder, partner, associate, or employe.

(3) Such a license shall be deemed to have been, or intended to be, used principally for the purpose of writing controlled business if the commissioner finds that during any twelve (12) months' period the aggregate premiums accruing or to accrue from such controlled business have exceeded or probably will exceed the aggregate premiums accruing or to accrue on other business written or probably to be written by such applicant or licensee during the same period.

(4) This section shall not apply as to:

(a) Insurance of the interest of a motor vehicle sales or financing agent in a motor vehicle sold or financed by it.

(b) Insurance of the interest of real property mortgagee in the mortgaged property, except title insurance.

(c) Credit *insurance pertaining to debtor's life, disability, property and unemployment* [~~life insurance and credit health insurance~~].

The Committee Amendment No. 1 to **HB 446** is as follows:

Amend printed copy of **HB 446** on page 2, line 3 after "policy" by deleting ","

On page 2, line 3, by deleting *"including credit insurance pertaining to"*

On page 2, line 4, by deleting *"debtor's life, disability, property and unemployment"*

On page 2, line 18, and on page 4, line 11, and on page 6, line 25, by inserting before *"property"* the word *"personal"*.

HB 457, AN ACT relating to insurance of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.20 IS CREATED TO READ AS FOLLOWS:

Every motor vehicle insurance policy insuring a motor vehicle licensed in this state shall extend its property damage coverage to cover the insured individual while operating a motor vehicle which is loaned, with or without consideration, to the insured individual for demonstration purposes or as a replacement vehicle while the insured's vehicle is out of use because of breakdown, repair, or servicing and if the other motor vehicle is loaned by a person, firm or corporation engaged in the business of selling, repairing, or servicing motor vehicles. Such extension of property damage coverage shall include coverage for damage to or loss of the loaned vehicle as a result of the negligence of the insured.

Section 2. KRS 190.033 is amended to read as follows:

No motor vehicle dealer's license, or motor vehicle auction dealer's license or wholesaler's license shall be issued or renewed unless the applicant or holder of said license shall have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until cancelled under proper notice. All bonds or policies must be issued in the name of the holder or applicant for the dealer's license or wholesaler's license. The bond or policy shall provide public liability and property damage coverage for the operation of any vehicle owned or being offered for sale by the said dealer or wholesaler when being operated by the owner or seller, his agents, servants, employes, prospective customers or other persons. *The property damage coverage mandated by this section shall only be in excess of the property damage coverage under a customer's or other person's own coverage for that person's own negligence.* The amount of said insurance shall be one hundred thousand dollars ($100,000) for bodily injury or death of any one person; and three hundred thousand dollars ($300,000) for bodily injury or death in any one accident; and fifty thousand dollars ($50,000) property damage. Said bond or insurance policy may not be cancelled unless fifteen (15) days' notice by the bondsman or insurance carrier has been given in writing to the department. Upon the cancellation of any bond or insurance policy required hereunder, the right to engage in the business of a motor vehicle dealer or wholesaler shall immediately abate; provided, however, that if the bond or insurance policy is reinstated within thirty (30) days from the date of cancellation the rights granted by the license shall again be in force and effect, otherwise, the said license shall become void.

The Committee Amendment No. 1 to **HB 457** is as follows:

Amend printed copy of **HB 457** on page 1, line 4, by inserting after "*vehicle*" and before "*licensed*" the words "*with collision coverage*"

On page 1, line 7 by deleting "*for demonstration*"

On page 1, line 8, by deleting "*purposes or*"

The Committee on Education reported **HB 6** with Committee Amendment attached thereto, **HB 280** with Committee Substitute attached thereto, and **HB 348** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.175 is amended to read as follows:

(1) As a continuation of the policy of teaching our country's history and as an affirmation of the freedom of religion in this country, the board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary. Pupils shall be reminded that this Lord's prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs in any manner. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion symbolized by the recitation of the Lord's prayer.

(2) By August 1, 1980, the board of education of each public local school district shall establish a policy and develop procedures whereby the pupils in each elementary and secondary school may participate in the pledge of allegiance to the flag of the United States at the commencement of each school day.

(3) At the commencement of the first class of each day in all public schools, the teacher in charge of the room may announce that a moment of silence not to exceed one (1) minute in duration shall be observed.

The Committee Amendment No. 1 to **HB 6** is as follows:

Amend printed copy of **HB 6** on page 2, line 3, after the word "*class*" insert the words "*or homeroom*".

HB 280, AN ACT relating to vocational school principals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

The principal of an area vocational education center or state vocational technical school shall be paid a base monthly salary which is at least two hundred dollars ($200) greater than the salary paid to any employe supervised by the principal.

The Committee Substitute to **HB 280** is as follows:

HB 280, AN ACT relating to vocational school principals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

The principal of an area vocational education center or state vocational technical school shall be paid a base monthly salary which is at least equal to the highest paid teacher supervised by the principal when the education and experience of the principal is equal to or greater than that of the supervised employe.

HB 348, AN ACT relating to voter education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department of education shall administer the provisions of this Act, pursuant to regulations adopted by the state board of education. In administering this Act, the department of education shall consult with the secretary of state and the state board of elections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Instruction in voter education shall be conducted in grades nine (9) to twelve (12) as part of the social studies curriculum.

(2) Such instruction shall include but not be limited to, study of the electoral process, voter registration procedures, and voting equipment demonstrations on the type of machine used in the student's county.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department of education shall develop a comprehensive statewide program in voter education by assuming the following functions:

(1) Assist in the development of model curricula for the public schools in voter education;

(2) Identify innovative teaching methods for the instruction of voter education in the public schools;

(3) Develop methods of evaluating the effectiveness of instruction in voter education;

(4) Assist school districts in conducting teacher in-service education programs on voter education; and

(5) Administer pilot projects on voter education in the schools and conduct teacher in-service education.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The governing board of each local school district shall adopt a policy regarding voter education programs in accordance with guidelines approved by the state board of education and consistent with the provisions of this Act, specifying among other things, the curriculum to be utilized in teaching voter education, provisions for in-service training and curriculum assistance to teachers.

The Committee on Transportation reported **HB 83, HB 339, HB 407** with Committee Substitute attached thereto, and **HB 461** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 83, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.223 is amended to read as follows:

Any peace officer having reason to believe that the height, length, width or weight of any motor truck, semitrailer truck, or trailer, is in excess of the maximum limits prescribed by KRS 189.221 and subsection (1) of 189.222 or permitted by any special permit issued under KRS 189.270 and in the possession of the operator, may measure it or weigh it either by portable or stationary scales, and may require it to be driven to the nearest scales, if such scales are within a distance of five (5) miles from the point at which the vehicle is first directed to stop. *The officer shall not determine that the operation of the motor truck, semitrailer, or trailer is unlawful because of excess weight unless he has weighed it either by portable or stationary scales.* If the officer shall determine that the operation of the motor truck, semitrailer, or trailer, was unlawful, he shall require the operator of said motor truck, semitrailer truck, or trailer to unload such portion of the load as may be necessary to decrease the gross weight of the vehicle to the maximum gross weight permitted under the terms of KRS 189.221 and subsection (1) of 189.222 or of KRS 189.270, or he may, at the election of the operator, permit the operator to move the vehicle with its load to the nearest city or nearest court having jurisdiction, at which place the excess load shall be unloaded. The excess load shall be unloaded at the sole risk of the owner. The refusal of the operator to permit his motor truck, semitrailer truck, or trailer to be measured or weighed, or to proceed to a scales, or to unload the excess load, shall constitute a violation of KRS 189.221 to 189.228.

HB 339, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.030 is amended to read as follows:

(1) *Every vehicle upon a highway within this state at any time* [~~Lights, when required on a vehicle shall be illuminated~~] during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, and at such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period *or when atmospheric conditions necessitate the use of windshield wipers, shall display lighted head lamps and illuminating devices as hereafter required for different classes of vehicles, subject to exceptions for parked vehicles.* Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

(2) Cities may by ordinance designate certain well-lighted streets or parts of the streets as being sufficiently illuminated during certain periods as to make lights unnecessary. In this case subsection (1) shall not apply to vehicles parked in those streets during such periods.

HB 407, AN ACT relating to traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer *shall* [~~may~~] issue a citation instead of making *a physical* [~~an~~] arrest for a *traffic or overweight* violation *of KRS 189.221 or 189.222* [~~committed~~] in his presence *involving operators of commercial vehicles as defined in KRS 186.010(11) who are engaged in their occupation at the time the violation occurs, and* [~~but~~] may not make a physical arrest unless there *is evidence available that the operator has failed to appear in court for other traffic violations* [~~are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time~~] or unless the offense charged is a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 2. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, *189.221, 189.222,* 189.231, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), [~~189.221, 189.222,~~] 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

The Committee Substitute to **HB 407** is as follows:

HB 407, AN ACT relating to traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer *shall* [~~may~~] issue a citation instead of making *a physical* [~~an~~] arrest for a *traffic or overweight* violation *of KRS 189.221 or 189.222* [~~committed~~] in his presence *involving operators of commercial vehicles as defined in KRS 186.010(11) who are engaged in their occupation at the time the violation occurs, and* [~~but~~] may not make a physical arrest unless there *is evidence available that the operator has failed to appear in court for other traffic violations* [~~are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time~~] or unless the offense charged is a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 2. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, *177.9771,* 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, *189.221, 189.222, 189.226, 189.230,* 189.231, *189.270, 189.271,* 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), [~~189.221, 189.222,~~] 189.223, 189.224, [~~189.270,~~] 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined *one hundred dollars ($100)* [~~not less than ten dollars ($10.00) nor more than five hundred dollars ($500)~~].

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred

dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars

($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

HB 461, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) *No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state maintained highway except that in the case of emergency, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles,*

including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5)[~~(4)~~] No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for handicapped persons;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6)[~~(5)~~] No person shall move a vehicle not lawfully under his control into any such prohibited area.

(7)[~~(6)~~] The restrictions in subsection *(5)*[~~(4)~~] (e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

The Committee Amendment No. 1 to **HB 461** is as follows:

Amend printed copy of **HB 461** on page 3, line 16 after the word "*emergency*" by inserting the words "*or in response to a peace officer's signal,*"

The Committee on Transportation reported **HB 477** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 477, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.623 is amended to read as follows:

(1) The term "parcel delivery carrier" means any person who holds himself out to the general public as an irregular route common carrier for hire transporting shipments of parcels or articles, no single *parcel or article* [~~shipment~~] of which would exceed a combined length and girth of one hundred and *thirty (130)* [~~eight~~ ~~(108)~~] inches, *or a length of one hundred and eight (108) inches,* or a weight of seventy (70) pounds, at rates to be fixed and approved by the department of vehicle regulation.

(2) Irregular route common carrier certificates shall state the specific commodity or type of lading for which such certificates are issued to transport, and describe in general the territory wherein the holder thereof shall have the right to operate or originate, if the same be less than statewide.

(3) If any person or his respective predecessor in interest is, as of June 18, 1964, operating pursuant to a valid certificate, granted by the department authorizing operations as parcel delivery carrier by motor vehicle under a regular route common carrier certificate authorizing the movement of intrastate shipments

of parcels or articles weighing seventy pounds or less, or not exceeding a total of 108 lineal inches in combined length and girth over regular routes specified in said certificate, all such certificate holders or their respective approved transferees shall be issued by the department upon June 18, 1964, an irregular route certificate for the operation of such parcel delivery service under the same terms and conditions as were embraced in the original regular route common carrier certificate, except that such service under the irregular route certificate shall be rendered to all points and places in the territory contained within the perimeter of the regular routes in said original certificate.

The Committee on Judiciary-Civil reported **HB 304** with Committee Substitute attached thereto, **HB 341**, **HB 403**, **HB 415** with Committee Amendment attached thereto, **HB 448**, and **HB 460** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 304, AN ACT relating to selection of jurors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.040 is amended to read as follows:

(1) *Property tax rolls and drivers license registers* [~~All voter registration lists~~] shall constitute a master list of prospective jurors. [~~Where possible, the jury commission shall acquire copies of these lists from the official having custody of the required lists.~~] The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) Public officers or employes having custody, possession, or control of any of the lists used in making the master list shall furnish a copy of the list to the jury commission without charge.

The Committee Substitute to **HB 304** is as follows:

HB 304, AN ACT relating to selection of jurors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.040 is amended to read as follows:

(1) *A list of persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county* [~~All voter registration lists~~] shall constitute a master list of prospective jurors. [~~Where possible,~~] The jury commission shall *annually* acquire *a copy* [~~copies~~] of *this list* [~~these lists~~] from the *transportation cabinet* [~~official having custody of the required lists~~]. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) *The transportation cabinet* [~~Public officers or employes having custody, possession, or control of any of the lists used in making the master list~~] shall *annually* furnish a copy of the *driver's license* list to the jury commission without charge.

HB 341, AN ACT relating to garnishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 425.506 is amended to read as follows:

(1) An order of garnishment of earnings, as defined in KRS 427.005, shall create a lien on all nonexempt earnings earned during the pay period in which the order is served on the employer *and during those succeeding pay periods which may be designated by the order*[~~, and where the pay period is for a period of less than two (2) weeks, or where the employe has been paid in advance for the pay period in which the order is served, also on all nonexempt earnings earned during the next succeeding pay period~~].

(2) Orders of attachment or garnishment of earnings shall have priority according to the date of service on the employer, each inferior order taking effect as if served at the commencement of the next succeeding

pay period not subject to a prior order; provided that no creditor shall cause two (2) orders to be served on the employer against the same employe in the same pay period.

(3) The order shall be served on the employer in triplicate and shall have printed thereon an explanation of subsections (1) and (2) of this section, the percentage of the disposable earnings, as defined in KRS 427.005, exempted from the order by subsection (2) of KRS 427.010, and the percentage to be forwarded to the court.

(4) The order shall have printed thereon the following directions to the employer:

(a) That a copy of the order shall be delivered to the employe, a copy retained by the employer for his records, and a copy returned by the employer to the court.

(b) That on the reverse side of the court copy shall be stated, under oath by the employer, the gross amount of earnings and the nonexempt amount of disposable earnings for the designated pay *periods* [~~period~~] subject to the order. If no funds are due, the reasons therefor shall be given.

(c) That the court copy of the order and the nonexempt amount of disposable earnings shall be forwarded to the court.

HB 403, AN ACT relating to liability for damages resulting from the criminal use of a firearm.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) A person or entity shall not be held liable for damages of any kind resulting from injuries to another person sustained as a result of the criminal use of any firearm by a third person, unless the person or entity conspired with the third person to commit, or willfully aided, abetted, or caused the commission of, the criminal act in which the firearm was used.

(2) This section shall not be construed to negate, limit, or modify the doctrine of negligence or strict liability relating to abnormally dangerous products or activities and defective products.

HB 415, AN ACT relating to ownership of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.837 is amended to read as follows:

If a condominium does not contain any unit which is designed for occupancy by only one family or household, or if the floor area of all those units which are designed for occupancy by only one (1) family or household does not in the aggregate exceed ten percent (10%) of the floor area of all units in the condominium, then the following provisions shall be applicable notwithstanding any other provisions of this chapter:

The master deed may provide:

(1) That to any extent specified in the master deed the common profits shall be distributed among, and the common expenses shall be charged to, the unit owners in proportions other than according to their respective percentages of the undivided interest in the common areas and facilities;

(2) That to any extent specified in the master deed the unit owners shall not be personally liable for sums assessed for their share of common expenses, but such provisions shall not adversely affect any lien for said share;

(3) That the priority provided in KRS 381.883 shall not prohibit subordination of a mortgage lien to the lien for common expenses;

(4) A procedure for submitting the disputes arising from the administration of the condominium to arbitration or other impartial determination;

(5) [~~Provisions giving a particular unit owner or owners voting rights with respect to election of directors, trustees or members of a managing board less than, or in excess of, the voting rights which such owner or owners would otherwise have had, and provisions requiring or permitting approval of any matter, or any specified category or categories of matters, by a proportion greater than a majority, which proportion may be as great as one hundred percent (100%);~~

~~(6)~~] Terms and conditions differing from those set forth in KRS 381.830 or 381.890 regarding rebuilding made necessary by fire or other casualty loss, the making of improvements and allocation of the costs of such rebuilding or improvements, and the removal of the condominium or portion thereof from the provisions of this chapter; and in such case the terms and conditions of the master deed shall take precedence over the provisions of KRS 381.830 or 381.890 to the extent they are inconsistent.

Section 2. KRS 381.990 is amended to read as follows:

(1) Any officer who certifies an abstract in violation of KRS 381.240 or 381.250 shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense. In addition to such fine, the officer shall be liable personally and on his official bond to the person in possession of the lands, and to any and all other persons aggrieved thereby, to an action for damages sustained by such persons by reason of such certificate.

(2) Any person who violates any of the provisions of KRS 381.690 to 381.710 shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense.

(3) Any person who fails to comply with the provisions of KRS 381.780 shall be guilty of a misdemeanor and shall be fined $25 for each offense. Each day that the violation continues shall constitute a separate offense.

(4) Any person or corporation who violates KRS 381.697 shall be subject to a fine of not less than $25.00 nor more than $250.00.

(5) Any person who fails to comply with any of the provisions of KRS 381.860 shall be fined one hundred dollars ($100) per day for each offense, and the county attorney and the attorney general shall prosecute the violator. In addition to the fine, the violator shall be liable personally to any and all persons aggrieved by the violation and subject to an action for damages, plus court costs and plaintiffs' attorneys' fees.

The Committee Amendment No. 1 to **HB 415** is as follows:

Amend printed copy of **HB 415** on page 3, line 21, delete "*shall*" and insert in lieu thereof "*may*"; and

On page 3, line 21, after "*fined*" insert "*not more than*"; and

On page 3, line 23, delete "*shall*" and insert in lieu thereof "*may*"; and

On page 3, line 24, delete "*shall*" and insert in lieu thereof "*may*".

HB 448, AN ACT relating to fences.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 256.040 TO 256.050 IS CREATED TO READ AS FOLLOWS:

(1) The district court shall have exclusive jurisdiction over all actions arising under this Act.

(2) The owner of a parcel of real estate used for agricultural purposes may file an action in the district court to require the initial construction or replacement of a boundary line fence or any portion thereof on the

boundary between any parcel of real estate adjacent to the real estate of the plaintiff.

(3) The complaint shall describe the boundary line which is the subject of the action; the use of or the use to which the plaintiff's real estate is to be put; the specific reason that an initial or replacement fence is needed; the type of fence and fence construction that is proposed; whether an existing fence is to be removed; whether vegetation or growth must be removed in order to carry out the construction; the method proposed for removal; and the proposed disposition of the material that is removed.

(4) The court shall determine if the existing fence is adequate or if no fence exists. If the court finds the existing fence is inadequate or no fence exists, the court shall order the construction of a new fence and shall find and order:

(a) The type of fence to be constructed based upon the use or proposed use of the real estate. Any permanent type of fence construction commonly accepted in the area may be ordered.

(b) If necessary, the removal of vegetation and growth from the boundary line or fence row in order to efficiently construct the fence, and the method of removal, including mechanical means.

(c) Disposition or piling of the removed material.

(d) Apportionment of the cost of the removal of the existing fence, the removal of growth and vegetation and the cost of the construction of the new fence, between the landowners, which shall be one-half to each landowner unless the court determines such apportionment to be unconscionable.

(5) The court shall grant the defendant a reasonable time after its order in which to comply with its judgment by constructing a fence in accordance with its order on the defendant's portion of the common boundary. If the defendant fails to comply, the court shall authorize the plaintiff to carry out the terms of its order and the defendant's portion of the cost pursuant to the order shall constitute a lien on the defendant's property and shall bear interest at the legal rate.

(6) In all instances for purposes of maintenance of or construction of a fence on a common boundary line, the boundary line shall be divided between the parties and each landowner's portion shall be determined by assigning to him that portion of the boundary line which is on the right when facing the boundary from that landowner's real estate.

(7) The lien provided herein may be enforced in the circuit court according to law if the defendant fails to satisfy the costs of the fence within sixty (60) days of the district court's order.

Section 2. KRS 256.030 is amended to read as follows:

(1) When a division fence exists by agreement, acquiescence or compulsion, under *this Act* [~~KRS 256.040~~], each party shall keep a lawful fence on his portion of the line. If one party fails to do so, the person failing shall be liable for all the damages to trees, grass, grain, crops, cattle or land the other party may sustain from the trespassing of cattle over the division fence at the point at which the party failing was bound to keep in repair.

(2) Either party to a division fence shall be liable for damages in case his cattle break through or pass over the fence at any point the other party is bound to keep in repair, only if the fence through which the cattle pass is a lawful fence.

(3) The party damaged shall have a lien on the cattle, as provided in KRS 256.080.

SECTION 3. A NEW SECTION OF KRS 256.030 TO 256.050 IS CREATED TO READ AS FOLLOWS:

This Act shall be cited as the Kentucky Boundary Line Fence Act.

Section 4. The following KRS sections are repealed:

256.040 Owner may require adjoining owner to erect portion of fence — Notice — Erection at expense of other owner — Lien.

256.050 Owner of unimproved lands need not contribute — Union to fences of others — Removal.

256.060 Notice required prior to removal of fence.

256.070 Part owner may repair fences.

HB 460, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.396 is amended to read as follows:

As used in KRS 271A.397 to 271A.399:

(1) "Affiliate," including the term "affiliated person," means a person who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, a specified person.

(2) "Associate," when used to indicate a relationship with any person, means:

(a) Any corporation or organization (other than the corporation or a subsidiary of the corporation) of which such person is an officer, director or partner or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities;

(b) Any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and

(c) Any relative or spouse of such person, or any relative of such spouse, any one (1) of whom has the same home as such person or is a director or officer of the corporation or any of its affiliates.

(3) "Beneficial owner," when used with respect to any voting stock, means a person:

(a) Who, individually or with any of its affiliates or associates, beneficially owns voting stock, directly or indirectly; or

(b) Who, individually or with any of its affiliates or associates has:

1. The right to acquire voting stock, whether such right is exercisable immediately or only after the passage of time and whether or not such right is exercisable only after specified conditions are met, pursuant to any agreement, arrangement, or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise;

2. The right to vote voting stock pursuant to any agreement, arrangement, or understanding; or

3. Any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting or disposing of voting stock with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such shares of voting stock; *however, for the purposes of KRS 271A.396 through 271A.399 the beneficial owner of any voting stock held by, or owned through participation in, any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension, stock ownership or similar plan for employes or officers of the corporation or any of its subsidiaries shall be deemed to be the shareholder of record of such voting stock as shown on the stock transfer books of the corporation.*

(4) "Business combination" means:

(a) Unless the merger or consolidation does not alter the contract rights of the stock as expressly set forth in the articles of incorporation or change or convert in whole or in part the outstanding shares of stock of the corporation, any merger or consolidation of the corporation or any subsidiary with any interested shareholder or any other corporation, whether or not itself an interested shareholder, which is, or after the merger or consolidation would be, an affiliate *or associate* of an interested shareholder who was an interested shareholder prior to the transaction;

(b) Any sale, lease, transfer, or other disposition, other than in the ordinary course of business, in one (1) transaction or a series of transactions in any twelve-month period, to any interested shareholder or any affiliate *or associate* of any interested shareholder, other than the corporation or any subsidiaries, of any assets of the corporation or any subsidiary having, measured at the time the transaction or transactions are approved by the board of directors of the corporation, an aggregate book value as of the end of the corporation's most recently ended fiscal quarter of five percent (5%) or more of the total market value of the outstanding stock of the corporation or of its net worth as of the end of its most recently ended fiscal quarter;

(c) The issuance or transfer by the corporation, or any subsidiary, in one transaction or a series of transactions in any twelve-month period, of any equity securities of the corporation or any subsidiary which have an aggregate market value of five percent (5%) or more of the total market value of the outstanding stock of the corporation, determined as of the end of the corporation's most recently ended fiscal quarter prior to the first such issuance or transfer, to any interested shareholder or any affiliate *or associate* of any interested shareholder, other than the corporation or any of its subsidiaries, except pursuant to the exercise of warrants or rights to purchase securities offered pro rata to all holders of the corporation's voting stock or any other method affording substantially proportionate treatment to the holders of voting stock;

(d) The adoption of any plan or proposal for the liquidation or dissolution of the corporation in which anything other than cash will be received by an interested shareholder or any affiliate *or associate* of any interested shareholder; or

(e) Any reclassification of securities, including any reverse stock split; or recapitalization of the corporation; or any merger or consolidation of the corporation with any of its subsidiaries; or any other transaction which has the effect, directly or indirectly, in one transaction or a series of transactions, of increasing by five percent (5%) or more the proportionate amount of the outstanding shares of any class of equity securities of the corporation or any subsidiary which is directly or indirectly beneficially owned by any interested shareholder or any affiliate *or associate* of any interested shareholder*; or*

(f) Any receipt by an interested shareholder or any affiliate or associate of such interested shareholder of the benefit directly or indirectly, except proportionately as a shareholder of such corporation, of any loans, advances, guaranties, pledges or other financial assistance or any tax credits or other tax advantages provided by or through such corporation.

(5) "Common stock" means any stock other than preferred or preference stock.

(6) "Continuing director" means any member of the board of directors who is not an affiliate or associate of an interested shareholder or any of its affiliates, other than the corporation or any of its subsidiaries, and who was a director of the corporation prior to the time the interested shareholder became an interested shareholder, and any successor to such continuing director who is not an affiliate or associate of an interested shareholder or any of its affiliates, other than the corporation or any of its subsidiaries, and was recommended or elected by a majority of the continuing directors at a meeting at which a quorum consisting of a majority of the continuing directors is present.

(7) "Control," including the terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise, and the beneficial ownership of ten percent (10%) or more of the votes entitled to be case by a corporation's voting stock creates a presumption of control.

(8) "Equity security" means:

(a) Any stock or similar security, certificate of interest, or participation in any profit-sharing agreement, voting trust certificate, or certificate of deposit for the foregoing;

(b) Any security convertible, with or without consideration, into an equity security, or any warrant or other security carrying any right to subscribe to or purchase an equity security; or

(c) Any put, call, straddle, or other option, right or privilege of acquiring an equity security from or selling an equity security to another without being bound to do so.

(9) *"Independent member" of the board of directors means any director who is not an officer or full-time employe of the corporation or an affiliate or associate of an interested shareholder or any of its affiliates.*

(10) "Interested shareholder" means any person, other than the corporation or any of its subsidiaries, who:

(a) Is the beneficial owner, directly or indirectly, of ten percent (10%) or more of the voting power of the outstanding voting stock of the corporation; or is an affiliate of the corporation and at any time within the *five-year* [~~two year~~] period immediately prior to the date in question was the beneficial owner, directly or indirectly, of ten percent (10%) or more of the voting power of the then outstanding voting stock of the corporation. *The term interested shareholder shall not mean any entity or person holding or owning voting stock for, or through participation in, any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension, stock ownership or similar plan for employes or officers of the corporation or any of its subsidiaries.*

(b) For the purpose of determining whether a person is an interested shareholder, the number of shares of voting stock deemed to be outstanding shall include shares deemed owned by the person through application of subsection (3) of this section but shall not include any other shares of voting stock which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(11)[~~(10)~~] "Market value" means:

(a) In the case of stock, the highest closing sale price during the thirty-day period immediately preceding the date in question of a share of such stock on the composite tape for New York stock exchange listed stocks, or, if such stock is not quoted on the composite tape, on the New York stock exchange, or if such stock is not listed on such exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the thirty-day period preceding the date in question on the National Association of Securities Dealers, Inc., Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present; and

(b) In the case of property other than cash or stock, the fair market value of such property on the date in question as determined by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present.

(12)[~~(11)~~] "Subsidiary" means any corporation of which voting stock having a majority of the votes entitled to be cast is owned, directly or indirectly, by the corporation.

(13)[~~(12)~~] "Voting stock" means shares of capital stock of a corporation entitled to vote generally in the election of directors.

Section 2. KRS 271A.397 is amended to read as follows:

(1) In addition to any vote otherwise required by law or the articles of incorporation of the corporation, a business combination shall *either* be *approved* [~~recommended~~] by *a majority of the independent members of* the board of directors *who are also continuing directors, provided that the independent members of the board of directors shall not, for the purposes of this subsection (1) be required to either approve or disapprove of any proposed business combination, or* [~~and~~] approved by the affirmative vote of at least:

(a) Eighty percent (80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group; and

(b) Two-thirds of the votes entitled to be cast by holders of voting stock other than voting stock beneficially owned by the interested shareholder who is, or whose affiliate is, a party to the business combination or by an affiliate or associate of such interested shareholder, voting together as a single voting group.

(2) Unless a business combination is exempted from the operation of KRS 271A.396 to 271A.399 in accordance with the terms hereof, the failure to comply with the voting requirements of subsection (1) of this section shall render such business combination void.

(3) Notwithstanding anything to the contrary contained in this chapter (except the provisions of KRS 271A.398(5)(a)), no corporation shall engage in any business combination with any *entity or person who is at the time of such business combination an* interested shareholder of such corporation, *unless* [~~(regardless of whether~~] such person became an interested shareholder before March 28, 1986,[~~)~~] for a period of five (5) years following the date on which such interested shareholder became an interested shareholder unless such business combination is approved by *a majority of the independent members of* the board of directors of such corporation prior to such date on which the interested shareholder became an interested shareholder. If a good faith proposal is made in writing to the board of directors of such corporation regarding a business combination, the board of directors shall respond, in writing, within thirty (30) days or such shorter period, if any, as may be required by the Securities Exchange Act of 1934, setting forth its reasons for its decision regarding such proposal. *If the board of directors does not respond affirmatively in writing within thirty (30) days or such shorter period, if any, as may be required by the Securities Exchange Act of 1934, the independent members of the board of directors shall be deemed to have disapproved the business combination.*

(4) In discharging its duties under this section, or otherwise, the board of directors, in considering the best interests of the corporation, may consider in addition to the interests of the corporation's shareholders, any of the following:

(a) The interests of the corporation's employes, suppliers, creditors and customers;

(b) The economy of the state and nation;

(c) Community and societal considerations; and

(d) The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

(5) Notwithstanding KRS 271A.080 and any other provision of this chapter, and unless otherwise provided in the articles of incorporation before the creation or issuance of any rights or options as set forth herein, in considering the interests of the corporation's shareholders, the board of directors of a corporation may, before, on or after the effective date of this section, create and issue rights or options pursuant to KRS 271A.100 which may contain provisions which adjust the option price or number of shares issuable under such rights or options in the event of an acquisition of shares or a reorganization, merger, consolidation, sale of assets or other occurrence involving such corporation. Such rights or options may also include conditions that prevent the holder or holders of at least a specified number or percentage of the outstanding shares of the corporation, including subsequent transferees of the holder, from exercising those rights or options [~~For purposes of this subsection only, the term business combination shall additionally include any receipt by such interested shareholder or any affiliate or associate of such interested shareholder of the benefit, directly or indirectly (except proportionately as a shareholder of such corporation) of any loans, advance, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by or through such corporation~~].

Section 3. KRS 271A.398 is amended to read as follows:

(1) For purposes of subsection (2) of this section:

(a) "Announcement date" means the first general public announcement of the proposal or intention to make a proposal of the business combination or its first communication generally to shareholders of the corporation, whichever is earlier;

(b) "Determination date" means the date on which an interested shareholder first became an interested shareholder; and

(c) "Valuation date" means:

1. For a business combination voted upon by shareholders, the latter of the day prior to the date of the shareholders vote or the date twenty (20) days prior to the consummation of the business combination; and

2. For a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) The vote required by KRS 271A.397 does not apply to a business combination if each of the following conditions is met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of common stock in such business combination is at least equal to the highest of the following:

1. The highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder for any shares of common stock of the same class or series acquired by it:

a. Within the *five-year* [~~two-year~~] period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher; or

3. The price per share equal to the market value per share of common stock of the same class or series determined pursuant to subparagraph 2. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of common stock of the same class or series acquired by it within the *five-year* [~~two-year~~] period immediately prior to the announcement date, over

b. The market value per share of common stock of the same class or series on the first day in such *five-year* [~~two-year~~] period on which the interested shareholder acquired any shares of common stock.

(b) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has previously acquired any shares of a particular class or series of stock:

1. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of such class of stock acquired by it:

a. Within the *five-year* [~~two-year~~] period immediately prior to the announcement date of the proposal of the business combination; or

b. In the transaction in which it became an interested shareholder, whichever is higher; or

2. The highest preferential amount per share to which the holders of shares of such class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation; or

3. The market value per share of such class of stock on the announcement date or on the determination date, whichever is higher; or

4. The price per share equal to the market value per share of such class of stock determined pursuant to subparagraph 3. of this paragraph, multiplied by the fraction of:

a. The highest per share price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the interested shareholder for any shares of any class of voting stock acquired by it within the *five-year* [~~two-year~~] period immediately prior to the announcement date, over

b. The market value per share of the same class of voting stock on the first day in such *five-year* [~~two-year~~] period on which the interested shareholder acquired any shares of the same class of voting stock.

(c) In making any price calculation under this section, appropriate adjustments shall be made to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock. The consideration to be received by holders of any class or series of outstanding stock is to be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for such class of stock shall be either cash or the form used to acquire the largest number of shares of such class or series of stock previously acquired by it.

(d) 1. After the interested shareholder has become an interested shareholder and prior to the consummation of such business combination:

a. There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation;

b. There shall have been no reduction in the annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock; and an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split; recapitalization; reorganization; or any similar transaction which has the effect of reducing the number of outstanding shares of the stock; and

c. The interested shareholder did not become the beneficial owner of any additional shares of stock of the corporation except as part of the transaction which resulted in such interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

2. The provisions of sub-subparagraphs a. and b. of subparagraph 1. do not apply if no interested shareholder or an affiliate or associate of the interested shareholder voted as a director of the corporation in a manner inconsistent with such sub-subparagraphs and the interested shareholder, within ten (10) days after any act or failure to act inconsistent with such sub-subparagraphs, notifies the board of directors of the corporation in writing that the interested shareholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

[~~(e) After the interested shareholder has become an interested shareholder, the interested shareholder may not have received the benefit, directly or indirectly, except proportionately as a shareholder, of any loans, advances, guarantees, pledges or other financial assistance provided by the corporation or any of its subsidiaries, whether in anticipation of or in connection with such business combination or otherwise.~~]

(3) (a) Whether or not such business combinations are authorized or consummated in whole or in part after July 13, 1984 or after the interested shareholder became an interested shareholder, the requirements of KRS 271A.397 do not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates or associates, have been approved or exempted therefrom by resolution of the board of directors of the corporation[~~:~~

~~1.~~] prior to two (2) months after July 13, 1984 or such earlier date as may be irrevocably established by resolution of the board of directors[~~;~~

~~2. If involving transactions with a particular interested shareholder or its existing or future affiliates or associates, at any time prior to the time that the interested shareholder first became an interested shareholder; or~~

~~3. At any time if such business combination is approved by a majority of continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present~~].

(b) Unless by its terms a resolution adopted under this subsection is made irrevocable, it may be altered or repealed by the board of directors, but this shall not affect any business combinations that have been consummated, or are the subject of an existing agreement entered into, prior to the alteration or repeal.

(4) (a) Unless the articles of incorporation or bylaws of the corporation specifically provide otherwise, the requirements of KRS 271A.397 do not apply to business combinations of a corporation that, on July 13, 1984, had an existing interested shareholder, whether a business combination is with the existing shareholder or with any other person who becomes an interested shareholder, after July 13, 1984, or their present or future affiliates, unless, at any time after July 13, 1984, the board of directors of the corporation elects by resolution, adopted by a majority of the continuing directors at a meeting of the board of directors at which a quorum consisting of at least a majority of the continuing directors is present, to be subject, in whole or in part, specifically, generally, or generally by types, as to specifically identified or unidentified interested shareholders, to the requirements of KRS 271A.397.

(b) The articles of incorporation or bylaws of the corporation may provide that if the board of directors adopts a resolution under paragraph (a) of this subsection, the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles of incorporation or the bylaws.

(c) An election under this subsection may be added to but may not be altered or repealed except by an amendment to the articles of incorporation adopted by a vote of shareholders meeting the requirements of subsection (5)(a)2. of this section.

(d) If a corporation elects under this subsection to be included within the provisions of KRS 271A.397 generally, without qualification or limitation, it shall file with the secretary of state articles of amendment including a copy of the resolution making the election and a statement describing the manner in which the resolution was adopted. The articles of amendment shall be executed in the manner required by KRS 271A.305.

(5) (a) Unless the articles of incorporation of the corporation provide otherwise, the requirements of *a shareholder vote and board approval in* KRS 271A.397 do not apply to any business combination of:

1. A corporation *which does not have on the date any interested shareholder became an interested shareholder:*

a. [~~having fewer than~~] Five hundred (500) *or more* beneficial owners of its stock;

b. Its principal executive office located in this state; and

c. One (1) or more of the following:

(i) More than two hundred (200) beneficial owners of its stock residing in this state;

(ii) More than ten percent (10%) of the beneficial owners of its stock residing in this state;

(iii) More than ten percent (10%) of its outstanding stock owned by residents of this state;

(iv) More than one hundred (100) employes of the corporation and its subsidiaries working within this state; or

(v) Assets located in this state and owned by, or owned by a person or entity controlled by, the corporation with a value of at least one million dollars ($1,000,000);

2. A corporation whose original articles of incorporation have a provision, or whose shareholders adopt an amendment to the articles of incorporation after the July 13, 1984, by a vote of at least eighty percent (80%) of the votes entitled to be cast by outstanding shares of voting stock of the corporation, voting together as a single voting group and two-thirds of the votes entitled to be case by persons, if any, who are not interested shareholders of the corporation, voting together as a single voting group, expressly electing not to be governed

by KRS 271A.397; or

3. An investment company registered under the federal Investment Company Act of 1940, as amended; a bank or a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended; a savings and loan holding company as defined in the federal Savings and Loan Holding Company Amendments of 1967, as amended; and a domestic insurer as defined under KRS 304.1-070.

(b) For purposes of subparagraph 1. of this subsection, all shareholders of a corporation who have executed an agreement to which the corporation is an executing party governing the purchase and sale of stock of the corporation or a voting trust agreement governing stock of the corporation shall be considered a single beneficial owner of the stock covered by the agreement.

Section 4. KRS 271A.399 is amended to read as follows:

(1) The provisions of KRS 271A.396 to 271A.398 are in addition to and do not repeal any other provisions of KRS Chapter 271A that govern any corporate actions described in KRS 271A.396 to 271A.398; provided, that in the event of a direct conflict between any provision of KRS 271A.396 to 271A.398 and any other provision of KRS Chapter 271A, the provision of KRS 271A.396 to 271A.398 shall prevail.

(2) It shall be considered that, for the purposes of KRS 446.090, it is the intent of the general assembly in enacting KRS 271A.396 to 271A.398 that any clause, sentence, subparagraph, paragraph, subsection, section, or other part of this Act or the application thereof to any person or circumstances held to be invalid shall not affect, impair or invalidate the remainder of this Act or the application of that part held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, or other part thereof directly involved in that holding or to the person or circumstances therein involved.

Orders of the Day

Representative Stumbo moved that **HB 233** be taken from the Clerk's Desk and placed in Orders of the Day. Agreed.

HB 233 with Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Keith moved the adoption of Floor Amendment No. 1 to **HB 233**. Agreed.

Representative Keith moved that **HB 233**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 2, 1988 roll call on **HB 233** - Appendix A.)

HB 233, as amended, was passed and the title agreed to.

Representative Keith moved that the vote by which **HB 233**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 288 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that **HB 288** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 2, 1988 roll call on **HB 288** - Appendix A.)

HB 288 was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 288** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 328, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Committee Amendment No. 1 to **HB 328**. Agreed.

Representative Ackerson moved that **HB 328**, as amended, be passed.

Representative Overstreet moved that **HB 328**, as amended, be laid on the Clerk's Desk. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 564, by Representatives Arnold and Barrows: AN ACT relating to counties.

HB 565, by Representatives Kerr and Callahan: AN ACT relating to property and casualty insurance.

HB 566, by Representatives Strong, Geveden and Turner: AN ACT relating to state support for education.

HB 567, by Representatives Donnermeyer, Johnson, Riner, Yates, L. Clark, Nett, R. Smith, Hancock, Callahan, Hourigan, Kerr and Pritchett: AN ACT relating to vital statistics.

HB 568, by Representatives Yates and L. Clark: AN ACT relating to the Kentucky unified juvenile code.

HB 569, by Representative Clarke: AN ACT relating to corporation organization tax.

HB 570, by Representatives Bronger, Gedling, Morris, L. Clark, Blevins, Callahan, Preston, Priddy, Stumbo, Rapier, McBee, Seum, R. Smith, Guenthner, Maggard, Hourigan, Strong, B. Smith, Hatcher, McElroy, Noland, Lundergan, M. Brown, Yates and Donnermeyer: AN ACT relating to civil liability for consumption of alcoholic beverages.

HB 571, by Representative B. Richardson: AN ACT relating to insurance.

HB 572, by Representative LeMaster: AN ACT relating to athlete agents.

HB 573, by Representative Blevins: AN ACT relating to controlled substances.

HB 574, by Representative Blevins: AN ACT relating to mental health and mental retardation.

HB 575, by Representative Johnson: AN ACT relating to crimes and punishments.

HB 576, by Representative Scorsone: AN ACT relating to health care.

HB 577, by Representative Meyer: AN ACT relating to banking.

HB 578, by Representative Hancock: AN ACT relating to state fiscal obligations.

HB 579, by Representative Blevins: AN ACT relating to arrests.

HB 580, by Representative Blevins: AN ACT relating to the allocation of insurance premium surcharges for public safety.

HB 581, by Representative Freibert: AN ACT relating to crimes and punishments.

HR 66, by Representatives Donnermeyer and Callahan: A RESOLUTION in memory of those who died in the arson apartment fire in Dayton, Kentucky.

HR 67, by Representative Donnermeyer: A RESOLUTION in honor of the firefighters who fought in the arson blaze in Dayton, Kentucky.

HR 68, by Representative Cline: A RESOLUTION opposing the rate increases requested by GTE South Incorporated.

HCR 69, by Representatives Reinhardt, Kerr, Crupper and Donnermeyer: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the water resource potential of the Licking River Basin and its tributaries in northern Kentucky.

HJR 70, by Representative Blevins: A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

HJR 71, by Representatives Noland, Farrow, J. Harper and Lefevers: A JOINT RESOLUTION authorizing and directing each state university, college or institution of higher education and each state agency responsible for administration of state funded or controlled financial assistance for education to deny all financial help to any individual who has failed to comply with the registration requirements of the Federal Military Selective Service Act.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 174, HB 188, HB 412, HB 482, HB 494, HB 507, HB 543, HB 544.**

Business Organizations and Professions: **HB 300.**

State Government: **HCR 61.**

Judiciary-Criminal: **HB 309, HB 493, HB 505, SB 96, SB 97, SB 99.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

State Government: **HB 342.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 199** and **HB 359** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time -2:45 p.m.)

Representative Cline moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cline moved the adoption of the following **HR 68**:

HR 68, A RESOLUTION opposing the rate increases requested by GTE South Incorporated.

WHEREAS, GTE South Incorporated, formerly General Telephone of the South, filed January 29 to increase its rates by $15.5 million; and

WHEREAS, GTE South also requested $5.8 million in December to cover changes in its accounting system, bringing the total to $21.3 million; or almost 14 percent of the company's total Kentucky revenues; and

WHEREAS, the increases, if granted, will raise basic monthly telephone rates by an average of over 32 percent; and

WHEREAS, the Public Service Commission has granted to GTE South five rate increases since 1980, during which time the company's profits have soared; and

WHEREAS, the additional rate increases, if approved, will strike a further financial blow to many struggling businesses and unemployed workers in depressed areas of the state served by GTE South;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this body does oppose the exhorbitant rate increase requests filed by GTE South.

Section 2. That the Public Service Commission is urged to deny the irresponsible increases requested by GTE South.

Section 3. That the Clerk is instructed to send a copy of this resolution to Mr. Robert C. Callafell, Vice President and General Manager, GTE South; and to Mr. Richard D. Heman, Jr., Chairman of the Public Service Commission.

HR 68 was adopted by voice vote.

Representative Donnermeyer moved that the rules be suspended to act upon two Resolutions. Agreed.

Representative Donnermeyer moved the adoption of the following **HR 66**:

HR 66, A RESOLUTION in memory of those who died in the arson apartment fire in Dayton, Kentucky.

WHEREAS, an arson fire killed five people and injured three others on January 30, 1988, in Dayton, Kentucky; and

WHEREAS, this tragedy occurred notwithstanding the valiant efforts of the Dayton fire department and others; and

WHEREAS, four of the victims were members of the same family and the other was a visiting friend; and

WHEREAS, one member of the family escaped just before a natural gas line broke, causing an explosion;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its profound sense of loss over these senseless and unnecessary deaths.

Section 2. That when the House adjourns today, February 2, 1988, it does so in memory of James Cundiff, his wife Carol Sue, their sons Jerry and Charles Fredrick, and May Ann Ooten, a visiting friend.

Section 3. That a copy of this resolution be sent to Annie Cundiff, who survived the fire.

HR 66 was adopted by voice vote.

Representative Donnermeyer moved that a call of the roll be taken to show co-sponsors of **HR 66**. Agreed.

The following members requested their names be added as Co-Sponsors of **HR 66**: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, K. Harper, Hoover, Hourigan, Jackson, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noland, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Richards, Riner, Robinson, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Donnermeyer moved the adoption of the following **HR 67**:

HR 67, A RESOLUTION in honor of the firefighters who fought in the arson blaze in Dayton, Kentucky.

WHEREAS, a seven-unit Dayton, Kentucky apartment building was set afire by an 18-year-old man for reasons unknown; and

WHEREAS, the early morning blaze on January 30, 1988, claimed the lives of five people and injured 3 others; and

WHEREAS, the four alarm fire was answered by the fire departments from Dayton, Bellevue, Fort Thomas, and Newport; and

WHEREAS, firefighters battled the blaze for nearly 3 hours before bringing it under control; and

WHEREAS, the rescue of trapped residents was complicated by ruptured natural gas lines and the age of the building, which was slated for demolition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House recognizes and praises the efforts of those valiant firefighters from Dayton, Bellevue, Fort Thomas, and Newport who risked their lives trying to rescue the victims of this tragic fire.

Section 2. That copies of the resolution be sent to the fire chiefs of the Dayton, Bellevue, Fort Thomas, and Newport fire departments.

HR 67 was adopted by voice vote.

Representative Donnermeyer moved that a call of the roll be taken to show co-sponsors of **HR 67**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 67**: Adkins, Allen, Altman, Arnold, Ballard, Blandford, Blevins, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Hourigan, Jackson, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Lundergan, Lyne, Maggard, McBee, McElroy, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Priddy, Rapier, Reinhardt, P. Richardson, Riner, Robinson, Siler, B. Smith, R. Smith, Strong, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Worthington moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Worthington moved the adoption of Legislative Citation No. 49. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds PATTY

DOWD for your accomplishment of capturing fourth place in the women's 10 kilometer road race at the Mayor's New Year's Day celebration in Canton, China. This is especially noteworthy as you are sixteen years old and competed with over 2000 runners of all ages, most of whom were older than you.

The House of Representatives joins Representative Pete Worthington in saluting you and acknowledges the contributions you have made to your sport as an ambassador from Fleming County, the Commonwealth and the United States and wishes you the best in future competitions. (Sponsored by Representative Worthington)

Representative Yates moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Yates moved the adoption of the following **HR 63**:

HR 63, A RESOLUTION adjourning the House of Representatives in honor of former Senator Danny Yocom.

WHEREAS, Danny Yocom served in the Senate of this Commonwealth for fifteen years, honorably and faithfully representing his constituents in the 37th Senatorial District of Jefferson County; and

WHEREAS, Danny Yocom's contributions to this body included leadership from 1976 to 1979 as Senate Democratic Caucus Chairman and from 1980 to 1986 as Chairman of the Business Organizations and Professions Committee; and

WHEREAS, illness has forced this distinguished colleague to retire from public life;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives once again expresses its respect and admiration for Danny Yocom and reminds him that he is always present when we are gathered together.

Section 2. That when the House of Representatives adjourns this day, Tuesday, February 2, 1988, it does so in honor of former State Senator Danny Yocom.

HR 63 was adopted by voice vote.

Representative Arnold moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Arnold moved the adoption of the following **HR 65**:

HR 65, A RESOLUTION commending the elected officials of the Forty-Fourth Senior Kentucky Youth Assembly and Model Supreme Court.

WHEREAS, the Senior Kentucky Youth Assembly and Model Supreme Court has long been involved in "hands-on" legislative and judicial experience for the youth of our Commonwealth; and

WHEREAS, seven hundred statewide Senior Kentucky Youth Assembly and Mock Supreme Court delegates represent our Commonwealth each year by writing, introducing and enacting legislation; and

WHEREAS, the Forty-Fourth Senior Kentucky Youth Assembly and Mock Supreme Court delegates has elected officials to represent their assembly in 1988; and

WHEREAS, this honorable body is proud to acknowledge the importance of recognizing the officials elected to the Forty-Fourth Senior Kentucky Youth Assembly and Model Supreme Court;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes the 1988 elected officials of the Forty-Fourth Senior Kentucky Youth Assembly and Model Supreme Court.

Section 2. That copies of this resolution be sent to the officials of the Forty Fourth Senior Kentucky Youth Assembly and Model Supreme Court: Kerry Depew, Governor, 320 North Sycamore, Mt. Sterling, Kentucky, 40353; Brian Scantland, Lieutenant Governor, 302 Edgewood Avenue, Elizabethtown, Kentucky, 42701; Shae McEwew, Speaker of the House, 403 Meriwether Drive, Lawrenceburg, Kentucky, 40342; Diedra Glasser, Secretary of State, 306 Wilson, Morehead, Kentucky, 40351; Alec Johnson, Attorney General, 1836 Gresham Road, Louisville, Kentucky, 40258; and Robert Leonard, Chief Justice, 1317 St. Andrews Drive, Shelbyville, Kentucky, 40065.

HR 65 was adopted by voice vote.

Representative Guenthner moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Guenthner moved that he be recorded as voting "yea" on **HB 302, HB 65, HB 27, HB 67, HB 68, HB 386, HB 3, HB 175, HB 23** and **HB 312**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representatives Crupper, Seum; **HB 249**, Representative Lile; **HB 250**, Representative Lile; **HB 288**, Representative Lile; **HB 307**, Representative Lile; **HB 333**, Representative Lile; **HB 340**, Representative Donnermeyer; **HB 369**, Representative Layman; **HB 370**, Representative Layman; **HB 401**, Representative Lile; **HB 414**, Representative Lile; **HB 450**, Representative J. Brown; **HB 459**, Representative Lile; **HB 496**, Representatives J. Brown, Hancock, B. Jones, Rapier; **HB 506**, Representatives Casebier, Lile; **HB 536**, Representative Lundergan; **HB 550**, Representatives Castleman, Curd, P. Richardson, R. Smith; **HB 551**, Representatives P. Richardson, Castleman, Curd, R. Smith; **HB 552**, Representatives P. Richardson, Castleman, Curd, R. Smith; **HCR 62**, Representative R. Smith; **HR 63**, Representative Bronger; **HR 66**, Representative Reinhardt.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions:

HB 536, Representative Burch; **HCR 61**, Representatives Gregory, Seum, Strong, Handy.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 289**, by Representative Deskins:

Amend printed copy of **HB 289** on page 1, line 9, after the word "*steel*" and before the "." insert the following: "*, except where provisions for protection of the road are made in an approved subsidence plan required to be filed pursuant to KRS Chapter 350*"

Floor Amendment No. 2 to **HB 420**, by Representative Strong:

Amend printed copy of **HB 420** on page 3, line 1, by deleting the underlined phrase "*and shall be made quarterly*"; and,

line 3, by deleting the underlined phrase "*Fifty percent (50%)*" and inserting in lieu thereof the following underlined phrase "*Forty percent (40%)*"; and, line 5, by inserting the following underlined language:

"(b) Five percent (5%) of the additional funds shall be used for administrative expenses of the respective area development districts within coal producing and coal impact counties;".

line 11, by deleting the underlined phrase "*Twenty percent (20%)*" and inserting in lieu thereof the following phrase "*Fifteen percent (15%)*" and,

line 14, by deleting the underlined phrase: "*Five percent(5%)*" and inserting in lieu thereof the following underlined phrase: "*Ten percent (10%)*"; and

line 15, by deleting the underlined phrase: "*Five percent 95%)*" and inserting in lieu thereof the following underlined phrase: "*Ten percent (10%)*".

Floor Title Amendment to **HB 460**, by Representative LeMaster:

Amend printed copy of **HB 460** by amending the TITLE to read as follows:

"AN ACT relating to business combinations."

Floor Amendment No. 1 to **HB 460**, by Representative LeMaster:

Amend printed copy of **HB 460** on page 24, after line 4, insert the following:

"Section 5. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the public service commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part. Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) No person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control, any utility, by sale of assets, transfer of stock or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

(5) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust or other entity (an "acquiror"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any retail electric supplier furnishing retail electric service in this state, without having first obtained the approval of the commission. Any such acquisition of control without such prior

authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a retail electric supplier, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any such individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the retail electric supplier. This presumption may be rebutted by a showing that such ownership does not in fact confer control. Application for any such approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in such form and contain such information as the commission requires. The commission shall approve any such proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make such investigation and hold such hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with such modification and upon such terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor or on a later date mutually acceptable to the commission and the acquiror. In the absence of any such action within such period of time, any such proposed acquisition shall be deemed to be approved.

(6) Subsection (5) of this section shall not apply to any acquisition of control of any:

(a) Retail electric supplier which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (5) of this section;

(b) Retail electric supplier by an acquiror who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such retail electric supplier, including any entity created at the direction of such retail electric supplier for purposes of corporate reorganization; or

(c) Retail electric supplier pursuant to the terms of any indebtedness of the retail electric supplier, provided the issuance of such indebtedness was approved by the commission.

(7) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable."

The Clerk announced the following meetings:

The Committee on Rules, Speaker's Office, upon adjournment.

Budget Review Subcommittee on Corrections, February 3, 12 noon, Room 104.

The Committee on Counties and Special Districts, February 3, 8:30 a.m.

The Subcommittee on Higher Education, February 3, 12 noon.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 3, 1988.

On the roll call the vote was yeas 84-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 8-Casebier, Deskins, Handy, Hatcher, Heleringer, LeMaster, Overstreet, Preston.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 3, 1988

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend J. Williamson Brown, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Morris and A. Jones.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 2, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 48, SB 141** and **HB 402**.

Introduction of Bills and Resolutions

HB 582, by Representative Ackerson: AN ACT relating to uniform limited partnerships.

HB 583, by Representatives K. Harper, Hancock, Freibert, O'Brien, Moberly, Arnold, T. Jones and Barrows: AN ACT relating to bond allocation.

HB 584, by Representatives Napier, Lundergan, L. Clark, Gedling, Noland, Turner, Siler, Altman, Ford, Walker, J. Harper, Adkins, Moberly, Todd, Maggard, Allen, Bronger, Seum, J. Brown, Strong, White and Castleman: AN ACT relating to retirement annuities in urban-county government.

HB 585, by Representative Mack: AN ACT relating to education.

HR 72, by Representatives Bruce, Rapier, Crupper, P. Richardson, Hancock, Ballard, White and Stumbo: A RESOLUTION requesting that a special committee be established to study the Kentucky teachers' retirement system.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 578, HB 580.**

Banking and Insurance: **HB 558, HB 565, HB 571, HB 577.**

Business Organizations and Professions: **HB 570, HB 572.**

Counties and Special Districts: **HB 563, HB 564.**

Education: **HJR 71, HB 566.**

Health and Welfare: **HB 561, HB 562, HB 567, HB 573, HB 574, HB 576.**

Judiciary-Civil: **HB 569**, **SB 95**.

Judiciary-Criminal: **HB 559**, **HB 568**, **HB 575**, **HB 579**, **HB 581**.

Labor and Industry: **HCR 64**.

Natural Resources and Environment: **HJR 70**, **HCR 69**.

State Government: **HB 557**, **HB 560**, **SB 20**, **SB 35**.

Report of Committees

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 369**, **HB 370**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 324**.

Counties and Special Districts: **HB 468**, **HB 496**.

Report of Committees

The Committee on Counties and Special Districts reported **HB 60**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 60, AN ACT relating to legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one time only and within thirty days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two or more times, provided that one publication occurs not less than seven days nor more than twenty-one days before the occurrence of the act or event.

(c) When an advertisement is for the purpose of informing the public and the advertisement is of a sale of property [~~or is a notice of delinquent taxes~~], the advertisement shall be published once a week for three successive weeks. *When an advertisement is for the purpose of informing the public and the advertisement* *is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once.* The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the State.

(d) Any advertisement not coming within the scope of paragraph (a) or (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two or more times, provided that one publication occurs not less than seven days nor more than twenty-one days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

Section 2. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show in the aggregate by source, the amount of funds collected and received, and in the aggregate by payee, the amounts disbursed, or the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown, *and except that the amount of salaries paid to all non-elected county employes shall be shown as lump sum expenditures by category including but not limited to road department, jails, solid waste, public safety, and administrative personnel,* and except that the amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service; however the local board of education *and the fiscal court* must have accessible a factual list of individual salaries for public scrutiny and the local board *and the fiscal court* shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school *or county* employes. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, except in a city electing to publish its audit in lieu of the financial statement pursuant to KRS 91A.040(6), within sixty (60) days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county. Within thirty (30) days after publication, the officer shall file with the auditor of public accounts a copy of the newspaper containing the statement.

(2) In lieu of the publication requirements of subsection (1) of this section, the appropriate officer of any municipally owned electric, gas or water system may elect to satisfy the requirements of subsection (1) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accord with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(3) In lieu of the publication requirements of subsection (1) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (1) of this section by publishing an audit, prepared pursuant to KRS 43.070 or 64.810, in the same manner that city audits are published pursuant to KRS 91A.040(7).

Section 3. KRS 68.080 is amended to read as follows:

The fiscal court of each county that contains a city of the first class shall cause to be published pursuant to KRS Chapter 424, *at the end of each fiscal year* [~~in April, July, October and January of each year~~], a financial statement of the county *which* [~~covering the three (3) months next preceding the statement. The statement~~] shall include a list of the claims and amounts thereof allowed against the county during the preceding *fiscal year* [~~three (3) months~~], and to whom allowed, with such other information as the fiscal court deems proper to have published.

The Committee Amendment No. 1 to **HB 60** is as follows:

Amend printed copy of **HB 60** on page 2, line 10 by inserting after "(c)" the following: "*Excepting counties with a city of the first class,*"

on page 2, line 12, by removing brackets and strikethroughs; and

on page 2, line 14, by deleting the new language; and

on page 2, lines 15 and 16, by deleting lines 15 and 16; and

on page 2, line 17, by deleting the new language; and

on page 2, line 14, by inserting after the word "weeks." the following:

"*For counties containing a city of the first class, when an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half page notice of advertisement the preceding week.*"; and

on page 7, line 2, by inserting after the period the following:

"Section 3. KRS 424.330 is amended to read as follows:

Whenever the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360 and 134.370, the fiscal court shall promptly cause such list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of *$3.00 per name per publication* [~~$1.00~~] shall be added to the amount of each tax claim so published, as publication costs."; and

on page 7, line 3, by renumbering "Section 3." to read "Section 4.".

The Committee on Counties and Special Districts reported **HB 425** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 425, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.120 is amended to read as follows:

(1) All or any part of an incorporated city may be included in the boundaries of any existing water district or water district being newly organized, provided the governing body of such city by resolution or ordinance gives, or has given, its consent. Said consent may be limited to water, gas or sewage service, and the authority of the water district to serve the area of the incorporated city shall be limited by the exclusion of any type of service from the consent given. *Any city which has been included in the boundaries of a water district for ten (10) or more years shall be deemed to have given its consent to the service, whether water, gas, or electric, which has been provided for such period.* [~~; Provided, however, That~~] The acquisition by a water district of an existing franchise for a water, gas, or sewage distribution system within such a city, whether by purchase, assignment or otherwise, shall be deemed to constitute the consent of the city which granted the franchise in the first instance, but only for the purpose of operating the type of distribution system for which the franchise was granted.

(2) The commission may contract with any city which is not included within the boundaries of the district for the purpose of furnishing water, gas or sewage services to the residents of such city and may contract with any city for the purpose of obtaining water, gas or sewage services for the use of the district.

(3) When the commission shall contract with any city of the first five (5) classes in the manner prescribed in this section, such city shall be deemed a part of the district during the life of the contract, but only for the purpose of carrying out the provisions of the contract [~~and for the purpose of permitting representation on the board of commissioners~~]. Nothing herein shall impair the ownership by the contracting city of its own system, or empower the district to take any action not authorized by the contract.

SECTION 2. A NEW SECTION OF KRS CHAPTER 74 IS CREATED TO READ AS FOLLOWS:

(1) When the water district desires to construct a water main which shall be primarily a transmission line and secondarily a line to serve customers along the water main, the commission may recommend to the court that the assessments be on a deferred basis. If the court determines that the water main in primarily a transmission main, and secondarily benefits the property owners abutting the water main, the court may provide that the assessments shall be on a deferred basis.

(2) In the event the assessments are on a deferred basis, they shall not be immediately due and payable until the benefit to the abutting property owners is realized either by a sale of the property or when the abutting property owner desires to tap into the water main, and at that time the deferred assessment shall be paid in full without interest.

(3) In the event a property owner who has a deferred assessment against his property sells only a portion of the property or desires water service for only a portion of the property, the deferred assessment shall be prorated and paid only for the portion being sold or for the reasonable area of property being served by the water main. The property owner shall be required to furnish to the commission a plat of the property being sold or the area which will be served with water, and no other area may be served from that service unless an additional portion of the deferred assessment is paid.

(4) All remaining provisions of the assessment statutes shall apply to deferred assessments except as same may be inconsistent with this deferred assessment provision.

Section 3. KRS 74.150 is amended to read as follows:

(1) After the classification of the land and the ratio of assessment of the different classes to be made has been confirmed by the county judge/executive, the commission shall prepare an assessment roll in duplicate, signed by the chairman and secretary of the commission, giving a description of all the land in the water district, the name of the owner, and the amount of assessment against each of the several tracts of land. In preparing this assessment roll the commission shall ascertain the total cost of the improvement, the cost of the proceedings and all wages paid or to be paid, and the total shall be the amount to be paid by the lands benefited. Attached to this water-assessment roll and filed with it, shall be a statement of all the costs of the work to be done, and five percent (5%) in addition to meet any unforeseen contingencies. This statement of costs shall also be made in duplicate and signed by the chairman and secretary of the commission. One (1) copy of the assessment roll and statement of costs shall be filed with the county clerk in which the proceeding is pending, and he shall then give at least ten (10) days' notice of the time of the hearing on the assessment roll and statement of costs.

(2) At the time fixed for the hearing, the county judge/executive shall hear in a summary way all objections to the cost of the improvement, as set out in the statement made by the commission and filed with the assessment roll, and all objections to the assessments of lands therein set forth, and shall enter an order confirming the assessment roll, or directing the commission to change the assessments in accordance with the finding of the county judge/executive. The order of the county judge/executive confirming or modifying the assessment roll and statement of costs *shall be final for all purposes if not appealed within thirty (30) days after the entry of the order* [~~may be appealed from~~]. The county judge/executive shall also direct the clerk to certify to the treasurer of the commission a copy of the assessment roll as filed by the commission or changed by the county judge/executive. One (1) copy of the assessment roll shall be retained by the clerk and recorded as part of the record.

Section 4. KRS 74.170 is amended to read as follows:

Any landowner whose land is assessed for any improvement under the provisions of this chapter may pay his assessment in full at any time within thirty (30) days after notice of assessment has been given. Every person who fails to pay the full amount of his assessment to the treasurer of the commission within thirty (30) days shall be deemed as consenting to the issuing of water district bonds *or the taking of a loan by the district, to be repaid out of assessment revenues.*

Section 5. KRS 74.180 is amended to read as follows:

(1) If all assessments are not paid in full by thirty (30) days after notice of assessment, the commission may issue bonds for the amount of the unpaid assessments, *or may finance improvements on a temporary basis from district revenues or a loan to be repaid when assessments are collected. If the commission decides to issue bonds, it* [~~and~~] shall give notice that it proposes to issue bonds, giving the amount of bonds to be issued, the rate of interest they are to bear and the time they will become payable.

(2) At the expiration of thirty (30) days after the publication, the commission may divide the unpaid assessments into not less than ten (10) annual instalments, which shall draw interest at the rate of not more than six per cent (6%) per annum, payable annually, from thirty (30) days after the date of publication. The bonds shall mature in series to correspond with the instalments into which the unpaid assessments are divided, and shall draw interest at the rate of not more than six per cent (6%) per annum, payable annually, and be payable at some place to be designated by the commission. The bonds shall be for the exclusive use and benefit of the water district and shall designate on the face the name of the district and the purpose for which they were issued.

(3) The commission, in dividing the unpaid assessments into instalments, shall fix the time for payment, and each landowner shall pay the instalments due on his land, with interest due on that instalment and deferred instalments, to the treasurer of the commission on or before the time fixed by the commission for the maturity of the instalment.

Section 6. KRS 74.370 is amended to read as follows:

(1) Any water district, created in the manner provided in KRS 74.010 to 74.070, both inclusive, may if the commissioners of such water district deem it feasible, build, or acquire or enlarge a water system without resort to, *or in combination with,* the right to levy assessments for the cost of such water system, as is provided in KRS 74.130 to 74.250, both inclusive, and may obtain the funds with which to build, acquire or enlarge such system by the issuance of revenue bonds, payable solely from the revenue to be derived from the operation of such system, *or payable partially from revenues and partially from assessments.*

(2) In the event the commissioners shall decide to finance the cost of such construction, acquisition or enlargement by the issuance of revenue bonds, secured solely by the revenue of the system *or partially by the revenue of the system and partially by assessments,* the commission shall note such decision by appropriate resolution, and shall thereafter proceed under the provisions of KRS 96.350 to 96.510, both inclusive, and the water district and the commission shall have the same powers and duties as a city of the second to sixth class inclusive under the provisions of KRS 96.350 to 96.510, both inclusive. *However, the water district and the commission shall not be limited solely to the revenue of the system in securing revenue bonds so issued.*

[~~(3) In the event such procedure is followed the commission shall not observe the provisions of KRS 74.130 to 74.230, both inclusive.~~]

The Committee on Energy reported **HB 401**, **SB 10** and **SCR 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 401. AN ACT relating to the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.060 is amended to read as follows:

(1) Each commissioner shall be a resident and qualified voter of this state, not less than twenty-five (25) years of age at the time of his appointment and qualification, *except as age is specified in subsection (6) of this section,* and shall have resided in this state for at least three (3) years prior to his appointment and qualification. Each commissioner shall take and subscribe to the constitutional oath of office, which shall be recorded in the office of the secretary of state.

(2) No person shall be appointed to or hold the office of commissioner who holds any official relationship to any utility, or who owns any stocks or bonds thereof, or who has any pecuniary interest therein.

(3) No commissioner shall receive any rebate, pass, percentage of contract or other thing of value from any utility.

(4) In addition to the restrictions on members of the commission set forth in KRS 278.050(1), no commissioner shall engage in any occupation or business inconsistent with his duties as such commissioner.

(5) If any commissioner becomes a member of any political party committee, his office as commissioner shall be thereby vacated.

(6) In making appointments to the commission, the governor shall consider the various kinds of expertise relevant to utility regulation and the varied interests to be protected by the commission, including those of consumers as well as utility investors. *At least one (1) member of the commission shall be not less than sixty (60) years of age,* and no more than two (2) members shall be of the same occupation or profession.

SB 10. AN ACT relating to oil overcharge refunds and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.560 is amended to read as follows:

(1) There is hereby established in the treasury of the Commonwealth a trust fund to be known as the "[~~low-income~~] energy assistance trust fund" herein referred to as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of [~~settlements of~~] litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state office for investment and debt management and *all moneys in excess of the amount to be disbursed in a given fiscal year* [~~the principal accumulated~~] shall be invested *to maximize* [~~with a maximum long-range~~] return. The principal *and any interest earnings of the trust fund* shall at no time lapse to the general fund [~~and shall continue to be invested. Interest accrued to the fund during the previous year shall be available for disbursement by the cabinet for human resources upon the authorization of the low-income energy assistance trust fund board as provided for in KRS 42.568~~].

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from the adoption of this Act. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the legislative research commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 general assembly. The remainder of the accumulated interest shall be made available to the cabinet for human resources with fifty percent (50%) of the interest allocated to weatherization services to

low income households and fifty percent (50%) of the interest allocated to low income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the general assembly from the trust fund as provided in KRS 48.300.

Section 2. KRS 42.566 is amended to read as follows:

(1) *The funds appropriated by the general assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:*

(a) The sum of five hundred thousand dollars ($500,000) or eight percent (8%) of the amount appropriated each fiscal year, whichever is greater, shall be distributed annually to the energy cabinet for expenditure in the institutional conservation program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. Section 6371 et seq. The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the cabinet for human resources and allocated as follows:

1. Forty percent (40%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. Section 6861 et seq.; and

2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. Section 8621 et seq. [~~The cabinet for human resources shall prepare and submit a plan to the board for the expenditures of those moneys available from the trust fund on or before April 15 of each year.~~

~~(2) The board shall review the plan and shall forward it to the governor no later than June 15 with such comments and recommendations as the board may deem appropriate.~~

~~(3) The governor shall act upon the plan no later than June 30.~~]

Section 3. KRS 42.572 is amended to read as follows:

The *state office for investment and debt management* [~~board~~] shall prepare and submit to the legislative research commission a report by July 30 of each year on the operational and financial status of the fund [~~and shall include in such report the plan as approved by the governor for expenditures of moneys available from the trust fund~~].

Section 4. The following KRS sections are repealed:

42.562 Low-income energy assistance trust fund board..

42.564 Review of investments — Estimate of funds available.

42.568 Withdrawal of funds.

42.570 Limitation on expenditures.

42.574 Administrative regulations.

Section 5. Whereas, the U.S. Department of Energy and the United States District Court for the District of Columbia have specifically determined that the perpetual trust established in 1986 Acts Chapter 262 is not an appropriate vehicle to disburse oil overcharge refunds and the U.S. Department of Energy has further determined that limitation of expenditures of oil overcharge refunds generated by the Stripper Well litigation to low-income consumers is not consistent with the restitutionary provisions of the Stripper Well Settlement Agreement; and

Whereas, certain imminent cuts in federal spending affecting the Commonwealth's programs to provide weatherization services to low income families and energy crisis and prevention services for low-income households without heat will substantially reduce the funds available to the cabinet for human resources to provide such services during the current fiscal year; and

Whereas, the changes made to the trust fund in this Act would create administrative problems if not made effective immediately, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

SCR 1. A CONCURRENT RESOLUTION directing a study of weatherization and energy conservation programs in the Commonwealth.

WHEREAS, recent energy projections by government and private organizations point to an alarming increase in American dependency on imported oil and warn of a pending energy crisis; and

WHEREAS, federal funding for energy conservation programs has dwindled to the point that the Kentucky Energy Cabinet is currently operating the three conservation programs funded by the United States Department of Energy: the state Energy Conservation Plan Program, the Energy Extension Service, and the Energy Conservation for Institutional Buildings Program on only twenty-five percent (25%) of the dollars that were available for those programs in 1981; and

WHEREAS, federal cuts have also been made in the Weatherization Assistance Program which is of particular concern to the General Assembly since low-income households which benefit from this program have yet to recover from the energy crisis created by the 1973 Arab oil embargo; and

WHEREAS, it is thus becoming increasingly important to ensure that all resources available to the Commonwealth to promote energy conservation and provide weatherization assistance are utilized to the fullest extent possible.

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Program Review and Investigations Committee conduct a detailed study of the state's energy conservation and weatherization programs. The study shall include but not be limited to the following:

(1) An evaluation of both program and cost effectiveness of all state-administered energy conservation and weatherization programs and a comparative analysis of other selected states' programs;

(2) Identification of private energy conservation and weatherization programs which could be successfully duplicated on a state level or coordinated with existing state programs;

(3) Consideration of consolidation of some or all state energy conservation and weatherization programs;

(4) Recommendations on how the state's Weatherization Assistance Program could be better coordinated with the Low-Income Home Energy Assistance Program; and

(5) Recommendations on what the future focus of the state's energy conservation and weatherization programs should be and how these programs could be made more cost effective, provide more services, leverage more dollars and better target program clientele.

Section 2. That the Program Review and Investigation Committee secure, with the approval of the Legislative Research Commission and as budgeted by the 1988 General Assembly, the services of an independent consultant or consultants to assist in the evaluation of the state's various energy conservation and weatherization programs. The Program Review and Investigations Committee shall identify those areas of research to be conducted by the consultant or consultants which may include program policy, management procedure, program operations, and the work product of these programs.

Section 3. That the consultant or consultants submit a final report to the Program Review and Investigations Committee on or before April 1, 1989.

Section 4. That the Program Review and Investigations Committee submit a full report including the findings of the consultant or consultants, to the Interim Joint Committee on Energy on or before July 1, 1989.

Section 5. Staff services to be utilized in completing this study are estimated to cost thirty thousand dollars ($30,000) and shall be provided from the regular Legislative Research Commission budget subject to the limitations and other research responsibilities of the commission.

The Committee on Judiciary-Criminal reported **HB 351** with Committee Amendments attached thereto, and **HB 352** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 351, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

(15) Any person who unlawfully traffics in a controlled substance classified in schedules I, II, III, IV or V in any building used primarily for classroom instruction in a public school or on any premises located within one thousand (1,000) yards of any public school building used primarily for classroom instruction shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

The Committee Amendment No. 1 to **HB 351** is as follows:

Amend printed copy of **HB 351** on page 13, line 14 to delete "*public*"; and

On page 13, line 15 to delete "*public*."

The Committee Amendment No. 2 to **HB 351** is as follows:

Amend printed copy of **HB 351** on page 13, line 21, following "*both*" to add, *,unless a more severe penalty is set forth in this chapter in which case the higher penalty shall apply.*

HB 352, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(d) Any person who knowingly and unlawfully manufactures, sells or possesses with intent to sell hashish shall be guilty of a class D felony.

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

Calendar

HB 203, **HB 446**, **HB 457**, **HB 6**, **HB 280**, **HB 348**, **HB 83**, **HB 339**, **HB 407**, **HB 461**, **HB 304**, **HB 341**, **HB 403**, **HB 415**, **HB 448** and **HB 460** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 477 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 240, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 240**. Agreed.

Representative Northup moved the adoption of Floor Amendment No. 1 to **HB 240**. Agreed.

Representative Lear moved that **HB 240**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 6. (See February 3, 1988 roll call on **HB 240** - Appendix A.)

HB 240, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 240**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 289, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Floor Amendment No. 1 to **HB 289**. Agreed.

Representative Little moved that **HB 289**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 3, 1988 roll call on **HB 289** - Appendix A.)

HB 289, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 289**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 340 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 340** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See February 3, 1988 roll call on **HB 340** - Appendix A.)

HB 340 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 340** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 284 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved that **HB 284** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 3, 1988 roll call on **HB 284** - Appendix A.)

HB 284 was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 284** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 377** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 3, 1988 roll call on **HB 377** - Appendix A.)

HB 377 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 377** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 48, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Substitute to **HB 48**. Agreed.

Representative Meyer moved that **HB 48**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See February 3, 1988 roll call on **HB 48** - Appendix A.)

HB 48, by way of Committee Substitute, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 48**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HJR 31** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 3, 1988 roll call on **HJR 31** - Appendix A.)

HJR 31 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HJR 31** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for ten minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

HB 199 and **HB 359** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 586, by Representatives Lundergan, Long, McElroy, Bronger, L. Clark, M. Brown, R. Smith, Ark, Gregory, Meyer, Noe, Moberly, T. Jones, Blevins and Cline: AN ACT relating to child support recovery.

HB 587, by Representative Long: AN ACT relating to insurance.

HB 588, by Representative Gray: AN ACT relating to death certificates.

HB 589, by Representative Clarke: AN ACT relating to acquisition of natural areas and providing funding therefor.

HB 590, by Representative Clarke: AN ACT relating to the secretary of state.

HR 73, by Representatives T. Jones, Noe, Guenthner, Overstreet, Richards and Preston: A RESOLUTION adjourning the House of Representatives in memory of Charles Hardin Holly.

HR 74, by Representative Worthington: A RESOLUTION commending Ms. Sherry Elaine Gray, "Ms. Rodeo Kentucky", for the recognition she has bestowed upon the Commonwealth of Kentucky by her outstanding performance in the "Miss Rodeo America Pageant."

HR 75, by Representatives Guenthner and Hatcher: A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. William P. Foree, pastor of Greater Bethel Temple Apostolic Church in Louisville.

Report of Committees

The Committee on Rules reported **HB 304**, **HB 339**, **HB 341**, **HB 403**, **HB 415**, **HB 446**, **HB 448**, **HB 457** and **HB 461** have been posted for passage in Orders of the Day, February 4, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 4, 1988: **HB 477**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 112**, **HCR 62**, **HB 462**, **HB 475**, **HB 509**, **HB 513**, **HB 529**, **HB 531**, **HB 444**, **HB 445**.

Judiciary-Criminal: **HB 548**.

Motions, Petitions and Communications (continued)

Representative J. Harper moved the adoption of Legislative Citation No. 51. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds each participant in the Close Up Program. Through this forum you have been able to be a part of your state legislature by meeting with your officials, having an opportunity to personally discuss issues concerning state government and observing the operations of the legislative branch.

The House of Representatives and Representative John Harper commend you for your involvement in this government and youth program. (Sponsored by Representative J. Harper)

Representative T. Jones moved the adoption of the following **HR 73**:

HR 73, A RESOLUTION adjourning the House of Representatives in memory of Charles Hardin Holly.

WHEREAS, on February 3, 1959, on the cold and snowy fields outside Mason City, Iowa, the voice of the crown prince of rock and roll was stilled forever; and

WHEREAS, the musical public continues to rave on with admiration for this brown-eyed, handsome man, and it realizes that'll be the day when, maybe, baby, the music will be raining in our hearts; and

WHEREAS, Richard Valenzuela, J. P. Richardson and Roger Peterson also passed from this life early in the morning the day the music died; and

WHEREAS, the 1100 ardent fans who earlier crowded into the Surf Ballroom applauded Buddy Holly for the last time;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when this honorable body does adjourn this day, Wednesday, February 3, 1988, it does so in memory of Charles Hardin Holly.

HR 73 was adopted by voice vote.

Representative Guenthner moved the adoption of the following **HR 75**:

HR 75, A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. William P. Foree, pastor of Greater Bethel Temple Apostolic Church in Louisville.

With heartfelt sorrow and with deepest respect we pay homage and tribute to the memory of our native son Dr. William P. Foree:

WHEREAS, after fifty-five years of unselfishly giving of himself the honorable Dr. William P. Foree died Saturday at his home after an illness; and

WHEREAS, Dr. Foree has crossed that final bourne from which no traveler returns; and

WHEREAS, the most distinguished Dr. Foree diligently worked as a servant of the Lord; and

WHEREAS, in 1972 Dr. Foree became pastor of the Greater Bethel; and

WHEREAS, four years later the church outgrew its building and purchased the old Adath Israel Temple at 834 South Third Street; and

WHEREAS, Dr. Foree was a noted radio and television minister currently on WLKY-32 on Sunday mornings; and

WHEREAS, the highly respected Dr. Foree was chairman of the First Apostolic Council of Kentucky-Tennessee and at the time of his death its vice-chairman; and

WHEREAS, Dr. Foree was vice-chairman of the board of directors of Aenon Bible College in Indianapolis; and

WHEREAS, Dr. Foree was on the scholarship board at the University of Kentucky and an Army veteran of the Korean War;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its profound sense of bereavement and loss upon the death of Dr. William P. Foree and commends his beloved wife the former Bobbie Talley and family to the solace of the Almighty to bridge these dark and painful moments.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Wednesday, February 3, 1988, it does so in memory and honor of a great Kentuckian Dr. William P. Foree.

Section 3. That the Clerk of the House is hereby directed to transmit a copy of this resolution to the family of Dr. William P. Foree and to the Greater Bethel Temple Apostolic Church.

HR 75 was adopted by voice vote.

Representative Heleringer moved the adoption of Legislative Citation No. 50. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds **MELANIE WHEAT** a senior at Eastern High School, for the honor of being recognized by the Middletown Optimist Club during their Youth Appreciation meeting for your scholastic achievements and participation in school and community activities. We commend you for this recognition and distinction which has brought great pride and honor to you and your parents, Patience and David Wheat.

The House of Representatives joins Representative Bob Heleringer in saluting you for your dedication and accomplishments. (Sponsored by Representative B. Heleringer)

Representative Guenthner moved the adoption of the following **HR 74**:

HR 74, A RESOLUTION commending Ms. Sherry Elaine Gray, "Ms. Rodeo Kentucky," for the recognition she has bestowed upon the Commonwealth of Kentucky by her outstanding performance in the "Miss Rodeo America Pageant."

WHEREAS, Ms. Sherry Elaine Gray competed in Las Vegas, Nevada, in December 1987, for the "Miss Rodeo America" title, after winning the title of "Miss Rodeo Kentucky" in April, 1987; and

WHEREAS, Ms. Gray was among the top contestants for the "Miss Rodeo America" title, having been judged in horsemanship, appearance, and intelligence; and

WHEREAS, Ms. Gray was selected by the forty-five other contestants in the national competition, as "Miss Personality"; and

WHEREAS, Ms. Gray has been riding horses since the age of six, and breaks, trains and shows her own horses throughout the summer; and

WHEREAS, Ms. Gray shows horses on the Morehead State University Equestrian Show Team, where she is a junior; and

WHEREAS, Ms. Gray, the daughter of Roy Lee and Bonnie Gray of Elizaville, Kentucky, plans to get her doctorate in Animal Science, specializing in Equine Research;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends Ms. Sherry Elaine Gray on being selected "Miss Rodeo Kentucky" and on her outstanding performance in the "Miss Rodeo America Pageant."

Section 2. That the House of Representatives congratulates her for the honor and recognition she has bestowed on her native home, the Commonwealth of Kentucky.

Section 3. That the members of this august body hereby express their pride in her accomplishments and wish her well in all of her future endeavors.

Section 4. That a copy of this Resolution be sent to Ms. Sherry Elaine Gray, Morehead State University, Morehead, Kentucky 40351 and to her parents Mr. and Mrs. Roy Lee Gray, Elizaville, Kentucky.

HR 74 was adopted by voice vote.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 347**, by Representative Blevins:

Amend printed copy of **HB 347** on page 4, line 16, following the word "vehicle" by deleting:

"*operator's licenses*" and inserting in lieu thereof "*license plates*";

On page 4, line 16, following the word "issued" by inserting:

"*Such cards shall be displayed in plain view and notice of their availability posted prominently.*";

On page 4, line 17, following the word "licenses" by deleting:

"*shall ask each person seeking to obtain or renew a license whether that person is a registered voter. Each person who replies that he is not registered shall be given*"

and inserting in lieu thereof "*may offer*".

The Clerk announced the following meeting:

Agriculture and Small Business, February 4, 1988, Room 103, 9:00 a.m.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representative Priddy; **HB 204**, Representative Maggard; **HB 228**, Representative Scorsone; **HB 247**, Representative Callahan; **HB 340**, Representative Seum; **HB 450**, Representative Hoover; **HB 497**, Representative Callahan; **HB 562**, Representative Will; **HB 579**, Representative Will

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions:

HB 399, Representative Gray; **HCR 61**, Representatives Ballard, Bronger, Gedling, Lyne, Siler, Yates.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 4, 1988.

On the roll call the vote was yeas 89-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates. Nays 3-Casebier, Heleringer, LeMaster.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 4, 1988

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative A. Jones.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 3, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 6**.

Representative Strong moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Strong moved the adoption of Legislative Citation No. 55. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and applauds PERCY ELKINS, executive director of the Kentucky River Area Development District for your dedication and outstanding contributions to improving the quality of life for the eight Counties in your district. K.R.A.D.D. is one of fifteen area development districts in the Commonwealth serving Breathitt, Knott, Lee, Leslie, Letcher, Owsley, Perry and Wolf counties. You have been instrumental in providing an organizational link between local, state, and federal entities.

The House of Representatives joins Representative Bill Strong in saluting you for your efforts. (Sponsored by Representative Strong)

Representative Adkins moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 77, by Representative Adkins: A RESOLUTION commending the Elliott County American Tan Soo Do students, staff and their coach and trainer, Dale Duvall.

Representative Adkins moved the adoption of the following **HR 77**:

HR 77, A RESOLUTION commending the Elliott County American Tang Soo Do students, staff and their coach and trainer, Dale Duvall.

WHEREAS, the Elliott County American Tang Soo Do students participated in nine tournaments last year including the National A. A. U. Karate Championships in Chicago, Illinois; and

WHEREAS, the Elliott County American Tang Soo Do students have earned a total of 175 awards; and

WHEREAS, the individual honors the Elliott County American Tang Soo Do students have won for themselves, their school, and Elliott County are: four USA Karate State Championships, two Kentucky A. A. U. Karate State Championships, four West Virginia Loong Gin Shi State Championships, three Kentucky All Star Karate State Championships, 11 National Individual Championships in A. A. U. Karate, six runnerup National A. A. U. Karate Championships and nine confirmed National Individual All Americans; and

WHEREAS, the Elliott County Tang Soo Do students are ranked by the A. A. U. of Kentucky in Karate as the Number 1 Novice Team in the state; and

WHEREAS, their team coach and trainer, Dale Duvall, was also selected by the A. A. U. Karate Organization of Kentucky as Kentucky Coach of the Year for 1987; and

WHEREAS, according to Mr. Jay Coder, spokesman for A. A. U. Karate in Kentucky, this team is expected to be the dominating force in novice Karate throughout the Tri-State in 1988;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly honors the Elliott County American Tang Soo Do students, staff, and Coach Dale Duvall for their outstanding performance.

Section 2. That the House of Representatives proclaims the students, staff and coach to be ambassadors of good will for the Commonwealth.

Section 3. That the Clerk of the House of Representatives is directed to transmit copies of this resolution to Coach Dale Duvall for distribution to his staff and team.

HR 77 was adopted by voice vote.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 402** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:10 p.m.)

HB 402 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introductions of Bills and Resolutions

HB 591, by Representative Hancock: AN ACT relating to taxation of motor fuels.

HB 592, by Representatives Geveden, Altman, Bruce and Adkins: AN ACT relating to embalmers and funeral directors.

HB 593, by Representative Geveden: AN ACT relating to unauthorized sports agency.

HB 594, by Representatives Stumbo and Hourigan: AN ACT relating to parole.

HB 595, by Representatives Mack, Burch, Handy, Moberly, Worthington, Hancock, Clarke, Ridley, P. Richardson, Scorsone, Overstreet, Pritchett, Blevins and Hatcher: AN ACT relating to health care.

HB 596, by Representative Ackerson: AN ACT relating to corporation income tax.

HB 597, by Representatives Crupper, Geveden, P. Richardson, Farrow, Gedling, Reinhardt, Arnold, Layman, McElroy, Castleman, Worthington, Jackson, Richards, Lyne, B. Smith and Pritchett: AN ACT relating to agriculture.

HB 598, by Representative Ackerson: AN ACT relating to crimes and punishments.

HB 599, by Representative Hancock: AN ACT relating to purchasing retirement.

HR 76, by Representatives LeMaster, Lear, Mack, Lundergan, Scorsone and Freibert: A RESOLUTION honoring the University of Kentucky varsity cheerleading squad.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 589**.

Banking and Insurance: **HB 587**.

Cities: **HB 584**.

Education: **HB 585**.

Health and Welfare: **HB 588**.

Judiciary-Civil: **HB 582, HB 586**.

State Government: **HB 583, HB 590, HR 72**.

Transportation: **SB 48, SB 141**.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 196**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 196, AN ACT relating to taxidermists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) Any person may sell any legally taken wildlife to a licensed taxidermist. A licensed taxidermist may buy any legally taken wildlife and may sell any legally taken wildlife for the purpose of mounting except as otherwise prohibited by federal law. Any legally mounted speciman may be bought and sold.

(2) Within ten (10) days after the end of each month, a licensed taxidermist shall send to the department a report indicating the number and name of the wildlife of each species which he purchased during the preceding month and the name and address of the person from whom he purchased the wildlife.

Section 2. KRS 150.411 is amended to read as follows:

(1) Every licensed taxidermist shall keep a suitable record *for five (5) years* in which shall be entered the species of each wildlife mounted by him and the name and address of the person for whom the mounting was done. [~~Within ten (10) days after the end of each month, he shall send to the department a report showing the number and name of the wildlife of each species mounted by him during the preceding month and the name and address of the person for whom each wildlife was mounted.~~]

(2) Any legally taken wildlife may be mounted, provided the wildlife bears identification with the name and address of the owner and date and place taken until such time as it is mounted.

(3) A fish and wildlife disposal permit, signed by a conservation officer, must be attached to wildlife taken other than during a legally open hunting season. Such permit will substitute for the identification required in subsection (2) of this section.

The Committee Substitute to **HB 196** is as follows:

HB 196, AN ACT relating to taxidermists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) Any person may sell the inedible parts of any legally taken wildlife to a licensed taxidermist for the purpose of mounting. A licensed taxidermist may buy or sell the inedible parts of any legally taken wildlife for the purpose of mounting except as otherwise prohibited by federal law. Any person may purchase from or sell to a licensed taxidermist any legally mounted specimen.

(2) Within ten (10) days after the end of each month, a licensed taxidermist shall send to the department a report indicating the number and name of the wildlife of each species which he purchased during the preceding month and the name and address of the person from whom he purchased the wildlife.

Section 2. KRS 150.411 is amended to read as follows:

(1) Every licensed taxidermist shall keep a suitable record *for five (5) years* in which shall be entered the species of each wildlife mounted by him and the name and address of the person for whom the mounting was done. [~~Within ten (10) days after the end of each month, he shall send to the department a report showing the number and name of the wildlife of each species mounted by him during the preceding month and the name and address of the person for whom each wildlife was mounted.~~]

(2) Any legally taken wildlife may be mounted, provided the wildlife bears identification with the name and address of the owner and date and place taken until such time as it is mounted.

(3) A fish and wildlife disposal permit, signed by a conservation officer, must be attached to wildlife taken other than during a legally open hunting season. Such permit will substitute for the identification required in subsection (2) of this section.

The Committee on Agriculture and Small Business reported **HB 449** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 449, AN ACT relating to damage to livestock.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.275 is amended to read as follows:

(1) Any owner or keeper of a dog which has killed or injured livestock or poultry or which has bitten such livestock or poultry so severely as to necessitate its destruction, or injured or damaged any person or property, shall be liable to the owner of such livestock or poultry, or person in a civil action for all damages and costs, or to the Commonwealth.

(2) Whenever any person sustains any loss or damage to any livestock or poultry by dogs, or any livestock or poultry of any person is necessarily destroyed because of having been bitten by a dog, except when such loss, destruction or damage shall have been caused by a dog harbored by the owner of such livestock or poultry, such person or his agent or attorney may, within seventy-two (72) hours after the damage is done, complain to a duly authorized agent of the department. Such complaint shall be in writing, shall be signed by the person making such complaint, and shall state when, where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of such complaint, the agent of the department shall at once examine the place where the alleged loss or damage was sustained and the livestock or poultry injured or killed, and shall examine under oath or affirmation, any witnesses called before him. After making diligent inquiry in relation to such claim, such agent, acting as appraiser, shall determine whether any damage has been sustained and the amount thereof and, if possible, who was the owner of the dog or dogs by which such damage was done. If the owner does not agree as to the amount of damage allowed by the appraiser, the owner and appraiser may appoint a disinterested citizen to assist in determining the amount of damages

sustained. For such services, the said disinterested citizen shall receive two dollars ($2.00) and mileage at seven cents (7) per mile for the distance traveled, which shall be paid by the owner and considered as part of the costs in such claim.

(3) In addition to the claims for damages provided in subsection (2) of this section, whenever any person sustains any loss or damage to his or her person or property as a result of being bitten by a dog, such person shall make complaint in writing to a duly authorized agent of the department stating when, where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of such complaint said agent shall investigate and ascertain the extent of the claim, and if approved, make an appraisal of the damages. If any person sustaining a loss does not agree to amount of damages allowed by the appraiser, the person making claim and the appraiser, may appoint a disinterested person to assist in determining the amount of damages sustained. No payment made out of the livestock fund for claims under this section shall exceed *two hundred fifty dollars ($250)* [~~one hundred dollars ($100)~~], and no payment shall be made, *except under subsection (4) of this section,* until the claimant shall certify that no payment was made by the owner of the dog or dogs doing the injury.

(4) Whenever any person sustains any damage to his person or loss or damage to livestock, poultry or other property caused by a coyote, the person may file a complaint as provided in subsections (2) and (3) of this section and KRS 258.285.

Section 2. KRS 258.285 is amended to read as follows:

(1) Upon receipt by the department of the appraisal report, the commissioner, if he approves the report, shall certify the amount thereof, together with the costs of the proceeding, to the secretary of the finance and administration cabinet who shall draw a warrant in the amount thereof on the state treasurer payable out of the livestock fund. If the commissioner does not approve the appraisal report, he shall ascertain the amount of damage sustained.

(2) The Commonwealth shall succeed to all rights and interests of the owner of livestock or poultry which have been killed or injured by dogs *or coyotes* to the extent of any payment made out of the livestock fund.

Section 3. KRS 258.295 is amended to read as follows:

(1) No payment shall be made for any injury to or destruction of livestock or poultry if payment has been made by the owner of the dog or dogs doing the injury. The fact that no such payment has been made shall be certified by the claimant.

(2) When any payment is made by the commonwealth for any livestock or poultry killed or injured by a dog *or a coyote*, such payment shall not exceed *two hundred dollars ($200)* [~~one hundred dollars ($100)~~] for each horse or mule; *two hundred fifty dollars ($250)* [~~one hundred and twenty-five dollars ($125.00)~~] for each head of registered cattle; *two hundred dollars ($200)* [~~one hundred dollars ($100)~~] for each head of unregistered cattle; *forty dollars ($40.00)* [~~twenty dollars ($20.00)~~] for each head of unregistered swine, sheep, or goats; *eighty dollars ($80.00)* [~~forty dollars ($40.00)~~] for each head of registered swine, sheep, or goats; *six dollars ($6.00)* [~~three dollars ($3.00)~~] for each full-grown goose; *ten dollars ($10.00)* [~~five dollars ($5.00)~~] for each full-grown turkey; and *two dollars ($2.00)* [~~one dollar ($1.00)~~] for each head of other poultry or domesticated hare or rabbit. All appraisals under this chapter shall be of the actual value of the livestock, including poultry, killed or injured.

The Committee on Business Organizations and Professions reported **HB 300**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 300, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee,

shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *one and seventy-five hundredths (1.75)* [~~three and five-tenths 3.5~~] liters [~~each~~] of distilled spirits or two hundred twenty (220) liters [~~each~~] of wine, and containing not less than *two hundred (200)* [~~seven hundred fifty (750)~~] milliliters [~~each~~] of distilled spirits, and not less than one hundred (100) milliliters [~~each~~] of wine not exceeding fourteen percent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty percent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than three hundred fifty-five (355) milliliters. If the licensee also holds a retail package license, the containers may contain as little as two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue tax stamps.

The Committee Substitute to **HB 300** is as follows:

HB 300, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *one and seventy-five hundredths (1.75)* [~~three and five-tenths 3.5~~] liters [~~each~~] of distilled spirits or two hundred twenty (220) liters [~~each~~] of wine, and containing not less than *two hundred (200)* [~~seven hundred fifty (750)~~] milliliters [~~each~~] of distilled spirits, and not less than one hundred (100) milliliters [~~each~~] of wine not exceeding fourteen percent (14%) alcohol by volume, as received from the wholesaler[~~, if the retail drink license is held by a restaurant or private club which receives a minimum of forty percent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than three hundred fifty-five (355) milliliters. If the licensee also holds a retail package license, the containers may contain as little as two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine~~].

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue tax stamps.

The Committee on Health and Welfare reported **HB 50**, with Committee Substitute attached thereto, and **HB 522** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Communicable disease" means only a communicable disease which may be transmitted by blood, or by a part of a human body and as set forth in any administrative regulation issued under Section 5 of this Act and pursuant to KRS Chapter 13A.

(3) "Health facility" means but is not limited to any hospital, long-term care facility as defined in KRS 216.510(1), primary care center, rural health clinic, outpatient health care clinic, ambulatory care facility,

ambulatory surgical center, emergency care center and service, ambulance service, health maintenance organization, blood bank, blood center, plasma center and any other applicable health facility set forth under KRS 216B.015(11), which collects or provides for the injection or transfusion of blood into a living human body or the transplantation of a part of a human body into a living human body.

(4) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(5) "Health service" means any health service as set forth under KRS 216B.015(14) and which provides for the injection or transfusion of blood into a living human body or the transplantation of a part of a human body into a living human body.

(6) "Part" means a part of a human body as defined under KRS 311.165(5) and which may be made an anatomical gift under KRS 311.165 to 311.235.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under Section 5 of this Act and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood or a donor of a part of a human body.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of the administrator or the authorized designee of such administrator of each health facility or health service which receives blood or a donated part of a human body for the purpose of injecting or transfusing such blood or transplanting such donated part of a human body into a living human person, to verify and certify in writing that such blood or donated part of a human body has been tested for exposure to the human immunodeficiency virus, or for exposure to any communicable disease or sexually transmitted disease which may be transmitted through blood or a donated part of a human body.

(2) No health care provider, health facility or health service which receives blood, or a donated part of a human body for the purpose of injecting or transfusing such blood or transplanting such donated part into a living human person shall inject or transfuse any blood or transplant any donated part of the body of any person known to:

(a) Have the medically diagnosed condition of acquired immune deficiency syndrome;

(b) Have been exposed to or tested confirmatory positive for exposure to the human immunodeficiency virus;

(c) Have been exposed to or tested confirmatory positive for exposure to any U.S. Centers for Disease Control recognized causative agent for acquired immune deficiency syndrome;

(d) Have a blood borne communicable disease; or

(e) Have a blood borne sexually transmitted disease.

(3) It shall be the duty of the administrator of any blood bank, blood center, plasma center or any health facility or health service which collects blood for the purpose of distributing to another health service, health facility or health care provider such blood for injection or transfusion into a human person to:

(a) Secure a signed written donor consent form for each potential paid or volunteer donor for the purpose of determining if such potential donor is at high risk for exposure to the human immunodeficiency virus, or has been exposed or tested positive for exposure to the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has been exposed to or tested positive for exposure to any causative agent for acquired immune deficiency syndrome recognized by the U.S. Centers for Disease Control; or has a blood borne communicable disease; or has a blood borne sexually transmitted disease;

(b) Provide a means for a potential paid or volunteer donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for exposure to the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have been exposed to or tested positive for exposure to the human immunodeficiency virus, or who have a blood borne communicable disease, or who have a blood borne sexually transmitted disease;

(d) Post a sign in the health service or health facility which is visible to all potential blood donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested positive for exposure to the human immunodeficiency virus (HIV), or who have a blood borne communicable disease or sexually transmitted disease or who have been exposed to one (1) or more risk factors determined by the U.S. Centers for Disease Control to place such person at high risk for exposure to the HIV virus or any AIDS-causative agent, are prohibited under Kentucky Revised Statutes from donating or selling blood. Persons violating the law are guilty of a Class D felony."

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No donor or potential donor of blood or a part of a body shall give false information about such person's risk of exposure or actual exposure to the human immunodeficiency virus, or to a blood borne sexually transmitted disease, or to a blood borne communicable disease to staff of a health facility, or health service, or blood collection facility, or blood bank, or blood center or plasma center which will collect or distribute such person's blood or body part to another living human being.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 2 and 3 of this Act notwithstanding, any person shall be entitled and allowed to participate in a program to donate such person's own blood solely for the purpose of having such blood available for autologous or self-derived transfusion at the time of such person's emergency or planned medical need.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall set forth in administrative regulation subject to the provisions of KRS Chapter 13A those reportable communicable diseases or sexually transmitted diseases which may be transmitted through blood or through any part of a human body which may be made an anatomical gift to another human person under the provisions of KRS 311.165 to 311.235.

SECTION 6. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall develop and issue a standardized blood donor informed consent form for mandatory use by any health facility or health service which collects blood for the purpose of distributing such blood for human injection or transfusion. The standardized blood donor informed consent form shall meet standards for suitability of donors as set forth in this Act and by the U.S. Food and Drug Administration.

SECTION 7. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of subsection (2) of Section 2 of this Act shall not apply in any emergency situation in which the attending physician determines a patient is in emminent danger of death or great bodily harm and no certified blood or body part, as set forth under subsection (1) of Section 2 of this Act is readily available to suitably alleviate the emergency situation; provided, however, that the attending physician shall, for any patient in such situation whose condition renders him incapable of giving consent, seek from the next of kin of the patient prior informed consent to inject or transfuse any blood or to transplant any body part. For purposes of this section, "next of kin" means, in the following order, the husband or wife of the patient; if there is none, then the mother or father of the patient; if there is none, then any child of the patient; if there is none, then any brother or sister of the patient.

SECTION 8. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No physician or health care provider transfusing untested blood or transplanting any untested body part into a patient during an emergency situation where the blood or body part is required to save the life of the patient shall be liable in civil damages or criminally, provided the provisions of Section 7 of this Act are met.

SECTION 9. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates any provision of Section 2, 3, 4, or 7 of this Act shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

The Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under Section 6 of this Act and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015(11) which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015(14) and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under Section 6 of this Act and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) All blood establishments within the Commonwealth shall be registered by the U.S. Food and Drug Administration or accredited by the American Association of Blood Banks and remain in compliance with all applicable federal regulations. All blood establishments shall test blood for infection with the human immunodeficiency virus (HIV) or any known causative agent of acquired immune deficiency syndrome (AIDS), any blood borne communicable disease, and any blood borne sexually transmitted disease in accordance with such tests as are approved by the U.S. Food and Drug Administration.

(2) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility or health care provider such blood for transfusion into a human person to:

(a) Secure a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if such potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome recognized by the U.S. Centers for Disease Control;

or has a blood borne communicable disease; or has a blood borne sexually transmitted disease;

(b) Provide a means for a potential paid or volunteer donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood borne communicable disease, or who have a blood borne sexually transmitted disease;

(d) Post a sign in the blood establishment which is visible to all potential paid or voluntary blood donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood borne communicable disease or sexually transmitted disease or who have been exposed to one (1) or more risk factors determined by the U.S. Centers for Disease Control to place such person at high risk for infection with the HIV virus or any AIDS-causative agent, are prohibited under Kentucky Revised Statutes from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."

(3) The provisions of this section shall not be construed to impose requirements inconsistent with donor consent requirements set out in U.S. Food and Drug Administration or American Association of Blood Banks standards.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) No donor or potential donor of blood shall donate blood if the person is at high risk for infection with the HIV virus, or has AIDS or has tested confirmatory positive for antibodies to the HIV virus or any causative agent of AIDS.

(2) No donor or potential donor of blood shall give false information to the staff of a blood establishment about such person's diagnosis as having AIDS or risk for infection or actual infection with the human immunodeficiency virus, or having any known causative agent of AIDS, or having a blood borne sexually transmitted disease, or having a blood borne communicable disease.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) Any person who wishes to direct a donation of his blood to himself or to a particular individual may and shall be permitted to do so.

(2) Any person who wishes to direct a donation of his blood to a particular individual may do so provided the requirements of Section 3 of this Act are met.

(3) The directed donation may be used for someone other than or in addition to the designated recipient if the donor's blood is not compatible with that of the designated recipient or if any part of the donation is not needed by the designated recipient.

(4) Any blood establishment which collects blood donations shall advise prospective donors of the provisions of this section and of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) No blood shall be transfused into a living human person by a health care provider, or within a health facility or a health service unless the blood establishment from which the blood is received is registered by the U.S. Food and Drug Administration or accredited by the American Association of Blood Banks.

(2) Each unit of blood collected by a blood establishment for transfusion into a living human person shall be affixed with a label which includes the following information:

(a) Date the blood was collected;

(b) Name of blood establishment;

(c) Nonidentifying code representing the name of the blood donor;

(d) A blood establishment serial number for the blood;

(e) The date of laboratory testing of the blood;

(f) The name of the person and laboratory testing the blood;

(g) The laboratory test results.

(3) Each laboratory testing such blood shall maintain for ten (10) years from the date of testing and each blood establishment shall maintain for ten (10) years from the data of collection a list containing the information set forth in subsection (2) of this section.

(4) No blood may be transfused into any patient in any health facility or health service or by any health care provider unless such unit of blood has affixed to it the label as required under this section and the blood has tested negative for the human immunodeficiency virus or any causative agent of AIDS, or any blood borne sexually transmitted disease or communicable disease as provided under Section 6 of this Act. When a unit of blood is transfused into any patient the label required under this section shall be removed from the unit and affixed to the patient's medical chart.

(5) Any unit of blood not containing the label required under this section shall be destroyed by the health facility, health service or health care provider.

SECTION 6. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall set forth in administrative regulation subject to the provisions of KRS Chapter 13A those reportable communicable diseases or sexually transmitted diseases which may be transmitted through blood.

SECTION 7. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall develop and issue a standardized blood donor consent form for mandatory use by any blood establishment which collects blood for the purpose of distributing such blood for human transfusion. The standardized blood donor consent form shall meet standards for suitability of donors as set forth in this Act and by the U.S. Food and Drug Administration.

SECTION 8. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) Untested blood may be transfused only in an emergency situation in which the attending physician determines a patient is in imminent danger of death or great bodily harm and no tested and labeled blood as set forth under Section 5 of this Act is readily available to suitably alleviate the emergency situation; provided, however, that the attending physician shall, for any patient in such situation whose condition renders him incapable of giving consent, seek from the next of kin of the patient, if available, prior informed consent to transfuse any blood. For purposes of this section, "next of kin" means, in the following order, the husband or wife of the patient; if there is none, then the mother or father of the patient; if there is none, then any child of the patient; if there is none, then any brother or sister of the patient.

(2) Blood establishments may release untested blood, collected under standards set forth in Section 2 of this Act, at the request of a physician or health facility or health service in emergency circumstances as provided under this section. If blood has not been tested, the test shall be performed after issuance of the blood. If the blood subsequently tests confirmatory positive, the patient's attending physician shall be immediately notified. The attending physician shall notify the patient of the test results.

SECTION 9. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No physician or health care provider transfusing untested blood into a patient during an emergency situation if the blood is required to save the life of the patient shall be liable in civil damages or criminally, provided the provisions of Section 8 of this Act are met.

SECTION 10. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates any provision of this Act shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

HB 522, AN ACT relating to the prevention of the spread of the human immunodeficiency virus (HIV).

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources, department for health services, shall, in consultation with local health officers, develop a state plan to prevent the spread of the human immunodeficiency virus (HIV), the virus which causes acquired immune deficiency syndrome (AIDS).

(2) Each district and local health department shall, in consultation with the cabinet for human resources, department for health services, develop a local plan to prevent the spread of the human immunodeficiency virus.

(3) State and local health officers shall make available to the public, health care providers, local school districts, colleges, and universities public information and educational materials about the HIV virus and AIDS, risk reduction education materials associated with transmission of the HIV virus, and confidential voluntary counseling and testing for infection with the HIV virus.

(4) The state department for health services shall:

(a) Prepare and disseminate to health care providers circulars of information and presentations describing the epidemiology, testing, diagnosis, treatment, medical, counseling, and other aspects of HIV infection;

(b) Conduct health information programs to inform the general public of the medical and psychosocial aspects of HIV infection, including updated information on how HIV infection is transmitted and can be prevented. The department shall make available and prepare for free distribution among the residents of the state printed information concerning the dangers from HIV infection, its prevention, and the advisability of testing for infection with the virus;

(c) Prepare and update as necessary an educational program on HIV infection in the workplace for use by employers;

(d) Develop and implement HIV education risk-reduction programs for specific populations at higher risk for infection; and

(e) Develop and update as necessary a medically correct AIDS prevention curriculum for use at the discretion of local school districts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Every physician who, during the course of an examination of a patient, discovers the existence of the patient's exposure to the human immunodeficiency virus (HIV) or who treats a patient for HIV infection shall counsel and interpret any laboratory test results, and provide information about HIV transmission and risk reduction practices, including measures for preventing the infection of others with the virus. Further, every physician who diagnoses a patient as having acquired immune deficiency syndrome shall provide information to such patient regarding measures for preventing the infection of others with the HIV virus.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

The department of personnel, in cooperation with the cabinet for human resources, shall develop, coordinate and implement an acquired immune deficiency syndrome education program for employes of the Commonwealth.

The Committee Amendment No. 1 to **HB 522** is as follows:

Amend printed copy of **HB 522** on page 3, line 16 by adding a new section to read as follows:

"Section 4. The responsibilities of the cabinet for human resources to carry out the provisions of this Act shall be limited to the amount of funding appropriated to carry out the provisions of this Act. When such funds are exhausted no action shall be taken to compel the provision of additional services."

The Committee Amendment No. 2 to **HB 522** is as follows:

Amend printed copy of **HB 522** on page 2, line 8,

By deleting the word, "*The*" and by deleting lines 9 through 13 in their entirety.

The Committee Amendment No. 3 to **HB 522** is as follows:

Amend printed copy of **HB 522** on page 1, line 16,

By deleting the word "*materials*" and inserting in lieu thereof the word "*publications*".

The Committee on State Government reported **HB 433** with Committee Substitute attached thereto, **HB 479**, **SB 2** with Committee Substitute attached thereto, **SB 47** and **SB 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 433, AN ACT relating to economic development through creation of tourism and recreation zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The general assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. There are certain economically depressed areas in the Commonwealth with unrealized potential for tourism and recreation related development which need particular attention to create new jobs, stimulate economic activity and attract private sector investment. It is the purpose of this Act to encourage new economic activity, particularly related to tourism and recreation, in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Authority" means the tourism and recreation zone authority of Kentucky;

(2) "Tourism and recreation zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of this Act;

(3) "New business" means any person, corporation or other entity who after the time of designation of a tourism and recreation zone becomes engaged in the active conduct of a trade or business within that zone;

(4) "Existing business" means any person, corporation or other entity who during the time of designation of a tourism and recreation zone is already engaged in the active conduct of a trade or business;

(5) "Qualified business" means any new or existing business with at least fifty percent (50%) of its employes performing substantially all of their services within a tourism and recreation zone:

(a) With a new business employing individuals from one (1) or more of the following three (3) categories constituting at least twenty-five percent (25%) of the business's employes:

1. Residents of a tourism and recreation zone;

2. Individuals who have been unemployed for at least ninety (90) days prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to obtaining employment with the business; or

(b) With an existing business creating new activity within the tourism and recreation zone of not less than a twenty percent (20%) increase in the number of employes or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business;

(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the tourism and recreation zone and maintains separate bookkeeping for business activity conducted within the tourism and recreation zone;

(6) "Qualified property" means:

(a) Any tangible personal property located in a tourism and recreation zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and

(b) Any real property located in such zone which:

1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or

2. Was the principal residence of the taxpayer on the date of the sale or exchange;

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business; and

(7) "Qualified employe" means any employe who works for a qualified business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county or urban-county government by act of the local legislative body may designate any area or areas within their jurisdiction to be an economically depressed area. Such city, county or urban-county government may then make written application to the authority to have such area or areas declared to be a tourism and recreation zone. Such application shall include a description of the location of the area or areas in question and such other information as the authority may require.

(2) Two (2) or more cities, counties, urban-county governments or any combination thereof, may by an act of each respective legislative body, designate any area or areas within their collective jurisdictions to be an economically depressed area. After each jurisdiction has enacted the proper ordinances designating the area or areas to be economically depressed for the purpose of applying to the authority for designation as a tourism and recreation zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the tourism and recreation zone which shall be comprised of representatives from each jurisdiction;

(b) A statement establishing the joint board for the life of the tourism and recreation zone;

(c) A statement establishing uniform local incentives which shall be offered by each jurisdiction;

(d) A statement establishing financial support by each jurisdiction for the administration of the joint board; and

(e) Any other requirements which may be established by the authority.

(3) Any jurisdiction with an existing tourism and recreation zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other jurisdictions. Any governmental unit applying to cross jurisdictional boundaries to amend the area of a tourism and recreation zone shall comply with the provisions of subsection (2) of this section and Section 4 of this Act.

(4) After approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more jurisdictions may then make written application to the authority to have such area or areas declared to be a tourism and recreation zone. Such application shall include a description of the area or areas in question and such other information as the authority may require.

(5) Upon receipt of an application the authority shall review the application to determine whether the area or areas described in the application qualify to be designated a tourism and recreation zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the unit of local government of the fact along with the reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Boundary changes to existing tourism and recreation zones shall not become effective until after written approval has been granted by the authority.

(2) Any jurisdiction applying to the authority for any amendment to the boundaries of an existing tourism and recreation zone shall certify the proposed area for amendment is contiguous to the existing zone.

(3) The jurisdiction applying for an amendment to the boundaries of an existing tourism and recreation zone shall submit an application under the same guidelines as the original application, with a map showing the original boundary lines and the proposed boundary line changes.

(4) Prior to granting approval for amending the boundaries of an existing tourism and recreation zone, the authority shall consider the following:

(a) The jurisdiction's commitment and incentives to be offered to support the tourism and recreation zone;

(b) If two (2) or more jurisdictions are involved, that each jurisdiction has met the requirements of Section 3 of this Act;

(c) The jurisdiction's attempt to utilize available buildings and properties within the existing zone; and

(d) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any area or areas of a city, county or urban-county government may be designated a tourism and recreation zone which:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if:

(a) The average rate of unemployment in such area for the most recent eighteen (18) month period for which data are available was at least one and one-half (1 1/2) times the average national rate of unemployment for such eighteen (18) month period; and

(b) At least seventy percent (70%) of the residents living in the area have incomes below eighty percent (80%) of the median income of the residents of the city, county or urban-county government requesting designation; or

(c) The population of all census tracts in the area decreased by ten percent (10%) or more between 1970 and 1980 and the city, county or urban-county government requesting designation establishes to the satisfaction of the authority that either:

1. Chronic abandonment or demolition of commercial or residential structures exist in the area, or

2. Substantial tax arrearages of commercial or residential structures exist in the area.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In each of the three (3) calendar years following the calendar year of the effective date of this Act, the authority may designate two (2) tourism and recreation zones. In the fourth (4th) calendar year from the year of the effective date of this Act, the authority may designate one (1) tourism and recreation zone. In deciding which areas should be designated as tourism and recreation zones, the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity, particularly related to tourism and recreation, and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) Any designation of an area as a tourism and recreation zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as a tourism and recreation zone if such area no longer meets the criteria for designation as set out in this Act or by regulation adopted by the authority pursuant to this Act, provided that no designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as a tourism and recreation zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to Section 10 of this Act until December 31 of the twentieth year from the date of the original designation of the area as a tourism and recreation zone.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of this Act, there is hereby created the tourism and recreation zone authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the governor from a list of three (3) persons nominated by the labor management advisory council; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky municipal league; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky association of counties; two (2) members appointed by the governor who are qualified to represent the interests of Kentucky's tourism and recreation community; two (2) members appointed by the governor to serve at-large; two (2) members appointed by the governor from a list of five (5) persons nominated by the secretaries of the commerce and tourism cabinets; and the secretaries of commerce and tourism.

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The commerce and tourism cabinets shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall administer the provisions of this Act, and shall have the following powers and duties:

(1) To establish criteria for determining which areas qualify as tourism and recreation zones;

(2) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the governor and general assembly by October 1 of any year preceding a regular session of the general assembly;

(3) To conduct a continuing evaluation program of tourism and recreation zones;

(4) To promulgate all necessary rules and regulations in accordance with the provisions of KRS Chapter 13A to carry out the purposes of this Act;

(5) To assist units of local government in obtaining federal status as an enterprise zone;

(6) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of this Act;

(7) To assist the governing authority of a tourism and recreation zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone;

(8) To assist the governing authority of a tourism and recreation zone in the development of small business incubators;

(9) To review local incentives every two (2) years; and

(10) To prohibit the certification of any future qualified business within the tourism and recreation zone if the local jurisdiction is not complying with the provisions of this Act, until such time as the authority deems that the jurisdiction has met the requirements of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish and design for public display a master business license which shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters or any other form of permission required by law, including agency rule, to engage in business in a zone.

(2) The authority shall provide information and appropriate assistance to persons desiring to locate and engage in business in a zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Irrespective of any authority delegated to the authority to implement the provisions of this Act, the authority for determining if any requested licenses, permits, certificates, approvals, registrations, charters, or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the license.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, except for motor vehicles purchased by the qualified business for the purpose of being rented or leased to a customer on either a short or long term agreement, shall be exempt from the motor vehicle usage tax.

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of this Act, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In order to carry out the purposes of this Act, any administrative body which promulgates administrative regulations pursuant to the provision of KRS Chapter 13A, may, by regulation, exempt designated tourism and recreation zones from the provisions of any regulation, in whole or in part, promulgated by that administrative body.

(2) Tourism and recreation zones shall not be exempted from the provisions of any regulation, if such exemption endangers the health and safety of the citizens of the Commonwealth.

(3) The authority shall conduct a review of all state regulations and shall recommend to the appropriate administrative bodies the exemption of regulations promulgated by such agency which would contribute to the implementation of this Act.

(4) Any exemption of a regulation in designated zones shall be adopted by regulation in the manner provided by KRS Chapter 13A.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154.700 IS CREATED TO READ AS FOLLOWS:

(1) Individuals residing in a tourism and recreation zone may establish, under the provisions of this Act, a neighborhood enterprise association corporation. There shall be only one (1) such corporation for each geographic neighborhood area. The neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(2) The incorporating residents shall draft a charter and bylaws for the association suitable for doing business in corporate form. The charter and bylaws shall describe the geographic neighborhood area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the neighborhood, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the

corporation is located.

(3) The incorporating residents shall send to all eligible residents of the corporation's neighborhood area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and bylaws; and

(c) An offer of the stock interest to which each particular resident is entitled without any charge for such stock.

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a neighborhood enterprise association corporation. The authority shall not grant such status unless the corporation has complied with the requirements of this Act and such other requirements as may be adopted by the authority by regulation. Upon granting certification, the authority shall place the corporation's charter and bylaws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of this Act. The authority shall give technical assistance to zone residents attempting to start such corporations.

(5) All property within the neighborhood area of a certified corporation which is owned by state and local government and which is not in current use by such government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under such lease shall not exceed one dollar ($1). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this Act.

(6) A certified corporation shall be exempt from any state or local tax during the life of the zone in which it is located.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Kentucky revenue cabinet shall assist the authority in the preparation of a joint questionnaire to be administered by the authority to qualified businesses within a tourism and recreation zone, for the purpose of the authority reporting to the general assembly on the fiscal impact of the tourism and recreation zone program.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

This Act is known and may be cited as the "Tourism and Recreation Zone Act of 1988."

The Committee Substitute to **HB 433** is as follows:

HB 433, AN ACT relating to economic development through creation of tourism and recreation zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The general assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. There are certain economically depressed areas in the Commonwealth with unrealized potential for tourism and recreation related development which need particular attention to create new jobs, stimulate economic activity and attract private sector investment. It is the purpose of this Act to encourage new economic activity, particularly related to tourism and recreation, in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Authority" means the tourism and recreation zone authority of Kentucky;

(2) "Tourism and recreation zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of this Act;

(3) "New business" means any person, corporation or other entity who after the time of designation of a tourism and recreation zone becomes engaged in the active conduct of a trade or business within that zone;

(4) "Existing business" means any person, corporation or other entity who during the time of designation of a tourism and recreation zone is already engaged in the active conduct of a trade or business;

(5) "Qualified business" means any new or existing business with at least fifty percent (50%) of its employes performing substantially all of their services within a tourism and recreation zone:

(a) With a new business employing individuals from one (1) or more of the following three (3) categories constituting at least twenty-five percent (25%) of the business's employes:

1. Residents of a tourism and recreation zone;

2. Individuals who have been unemployed for at least ninety (90) days prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to obtaining employment with the business; or

(b) With an existing business creating new activity within the tourism and recreation zone of not less than a twenty percent (20%) increase in the number of its employes or by a twenty percent (20%) increase in its capital investment within eighteen (18) months from the date of application for certification as a qualified business;

(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the tourism and recreation zone and maintains separate bookkeeping for business activity conducted within the tourism and recreation zone;

(6) "Qualified property" means:

(a) Any tangible personal property located in a tourism and recreation zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and

(b) Any real property located in such zone which:

1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or

2. Was the principal residence of the taxpayer on the date of the sale or exchange;

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business; and

(7) "Qualified employe" means any employe who works for a qualified business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county or urban-county government by act of the local legislative body may designate any area or areas within their jurisdiction to be an economically depressed area. Such city, county or urban-county government may then make written application to the authority to have such area or areas declared to be a tourism and recreation zone. Such application shall include a description of the location of the area or areas

in question and such other information as the authority may require.

(2) Two (2) or more cities, counties, urban-county governments or any combination thereof, may by an act of each respective legislative body, designate any area or areas within their collective jurisdictions to be an economically depressed area. After each jurisdiction has enacted the proper ordinances designating the area or areas to be economically depressed for the purpose of applying to the authority for designation as a tourism and recreation zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the tourism and recreation zone which shall be comprised of representatives from each jurisdiction;

(b) A statement establishing the joint board for the life of the tourism and recreation zone;

(c) A statement establishing uniform local incentives which shall be offered by each jurisdiction;

(d) A statement establishing financial support by each jurisdiction for the administration of the joint board; and

(e) Any other requirements which may be established by the authority.

(3) Any jurisdiction with an existing tourism and recreation zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other jurisdictions. Any governmental unit applying to cross jurisdictional boundaries to amend the area of a tourism and recreation zone shall comply with the provisions of subsection (2) of this section and Section 4 of this Act.

(4) After approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more jurisdictions may then make written application to the authority to have such area or areas declared to be a tourism and recreation zone. Such application shall include a description of the area or areas in question and such other information as the authority may require.

(5) Upon receipt of an application the authority shall review the application to determine whether the area or areas described in the application qualify to be designated a tourism and recreation zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the unit of local government of the fact along with the reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Boundary changes to existing tourism and recreation zones shall not become effective until after written approval has been granted by the authority.

(2) Any jurisdiction applying to the authority for any amendment to the boundaries of an existing tourism and recreation zone shall certify the proposed area for amendment is contiguous to the existing zone.

(3) The jurisdiction applying for an amendment to the boundaries of an existing tourism and recreation zone shall submit an application under the same guidelines as the original application, with a map showing the original boundary lines and the proposed boundary line changes.

(4) Prior to granting approval for amending the boundaries of an existing tourism and recreation zone, the authority shall consider the following:

(a) The jurisdiction's commitment and incentives to be offered to support the tourism and recreation zone;

(b) If two (2) or more jurisdictions are involved, that each jurisdiction has met the requirements of Section 3 of this Act;

(c) The jurisdiction's attempt to utilize available buildings and properties within the existing zone; and

(d) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any area or areas of a city, county or urban-county government may be designated a tourism and recreation zone which:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if:

(a) The average rate of unemployment in such area for the most recent eighteen (18) month period for which data are available was at least one and one-half (1 1/2) times the average national rate of unemployment for such eighteen (18) month period; and

(b) At least seventy percent (70%) of the residents living in the area have incomes below eighty percent (80%) of the median income of the residents of the city, county or urban-county government requesting designation; or

(c) The population of all census tracts in the area decreased by ten percent (10%) or more between 1970 and 1980 and the city, county or urban-county government requesting designation establishes to the satisfaction of the authority that either:

1. Chronic abandonment or demolition of commercial or residential structures exist in the area, or

2. Substantial tax arrearages of commercial or residential structures exist in the area.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Anytime during the three (3) calendar years following the effective date of this Act, the authority may designate a total of seven (7) tourism and recreation zones. In deciding which areas should be designated as tourism and recreation zones, the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity, particularly related to tourism and recreation, and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) Any designation of an area as a tourism and recreation zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as a tourism and recreation zone if such area no longer meets the criteria for designation as set out in this Act or by regulation adopted by the authority pursuant to this Act, provided that no designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as a tourism and recreation zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to Section 10 of this Act until December 31 of the twentieth year

from the date of the original designation of the area as a tourism and recreation zone.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of this Act, there is hereby created the tourism and recreation zone authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the governor from a list of three (3) persons nominated by the labor management advisory council; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky municipal league; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky association of counties; two (2) members appointed by the governor who are qualified to represent the interests of Kentucky's tourism and recreation community; two (2) members appointed by the governor to serve at-large; two (2) members appointed by the governor from a list of five (5) persons nominated by the secretaries of the commerce and tourism cabinets; and the secretaries of commerce and tourism.

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; three (3) for a term of two (2) years; three (3) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The commerce cabinet shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority. In addition, the commerce cabinet shall seek the advice and cooperation of the tourism cabinet in carrying out the purposes of this Act. To this end, the tourism cabinet shall supply staff services and assistance as needed and directed by the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall administer the provisions of this Act, and shall have the following powers and duties:

(1) To establish criteria for determining which areas qualify as tourism and recreation zones;

(2) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the governor and general assembly by October 1 of any year preceding a regular session of the general assembly;

(3) To conduct a continuing evaluation program of tourism and recreation zones;

(4) To promulgate all necessary rules and regulations in accordance with the provisions of KRS Chapter 13A to carry out the purposes of this Act;

(5) To assist units of local government in obtaining federal status as an enterprise zone;

(6) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of this Act;

(7) To assist the governing authority of a tourism and recreation zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone;

(8) To assist the governing authority of a tourism and recreation zone in the development of small business incubators;

(9) To review local incentives every two (2) years; and

(10) To prohibit the certification of any future qualified business within the tourism and recreation zone if the local jurisdiction is not complying with the provisions of this Act, until such time as the authority deems that the jurisdiction has met the requirements of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish and design for public display a master business license which shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters or any other form of permission required by law, including agency rule, to engage in business in a zone.

(2) The authority shall provide information and appropriate assistance to persons desiring to locate and engage in business in a zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Irrespective of any authority delegated to the authority to implement the provisions of this Act, the authority for determining if any requested licenses, permits, certificates, approvals, registrations, charters, or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the license.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, except for motor vehicles purchased by the qualified business for the purpose of being rented or leased to a customer on either a short or long term agreement, shall be exempt from the motor vehicle usage tax.

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of this Act, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In order to carry out the purposes of this Act, any administrative body which promulgates administrative regulations pursuant to the provision of KRS Chapter 13A, may, by regulation, exempt designated tourism and recreation zones from the provisions of any regulation, in whole or in part, promulgated by that administrative body.

(2) Tourism and recreation zones shall not be exempted from the provisions of any regulation, if such exemption endangers the health and safety of the public.

(3) The authority shall conduct a review of all state regulations and shall recommend to the appropriate administrative bodies the exemption of regulations promulgated by such agency which would contribute to the implementation of this Act.

(4) Any exemption of a regulation in designated zones shall be adopted by regulation in the manner provided by KRS Chapter 13A.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154.700 IS CREATED TO READ AS FOLLOWS:

(1) Individuals residing in a tourism and recreation zone may establish, under the provisions of this Act, a nonprofit neighborhood enterprise association corporation. There shall be only one (1) such corporation for each geographic neighborhood area. The neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(2) The incorporating residents shall draft a charter and bylaws for the association suitable for doing business in corporate form. The charter and bylaws shall describe the geographic neighborhood area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the neighborhood, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(3) The incorporating residents shall send to all eligible residents of the corporation's neighborhood area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and bylaws; and

(c) An offer of the stock interest to which each particular resident is entitled without any charge for such stock.

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a neighborhood enterprise association corporation. The authority shall not grant such status unless the corporation has complied with the requirements of this Act and such other requirements as may be adopted by the authority by regulation. Upon granting certification, the authority shall place the corporation's charter and bylaws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of this Act. The authority shall give technical assistance to zone residents attempting to start such corporations.

(5) All property within the neighborhood area of a certified corporation which is owned by state and local government and which is not in current use by such government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under such lease shall not exceed one dollar ($1). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this Act.

(6) A certified neighborhood enterprise association corporation shall be exempt from any state or local tax during the life of the zone in which it is located.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Kentucky revenue cabinet shall assist the authority in the preparation of a joint questionnaire to be administered by the authority to qualified businesses within a tourism and recreation zone, for the purpose of the authority reporting to the general assembly on the fiscal impact of the tourism and recreation zone program.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

This Act is known and may be cited as the "Tourism and Recreation Zone Act of 1988."

HB 479. AN ACT providing for the designation of the Kentucky Country Music Hall of Fame.

WHEREAS, John Lair, a distinguished innovator in country music, began a series of radio broadcasts in 1939 originating from Renfro Valley, which were designed to preserve the customs, culture, and music of rural America; and

WHEREAS, many sons and daughters of the Commonwealth have distinguished themselves by making indelible contributions to country music which should be duly honored; and

WHEREAS, the Kentucky Country Music Hall at Renfro Valley will continue to encourage and develop the talents of future artists;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Kentucky Country Music Hall of Fame, Inc. of Renfro Valley is hereby designated and declared as the Kentucky country music hall of fame.

SB 2, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ninety (90) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) If it is intended that an emergency administrative regulation's subject matter remain in effect then the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

(6) The *administrative regulation review subcommittee or subsequently assigned* subcommittee may review an emergency administrative regulation and may recommend to the governor that the regulation be revoked.

(7) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.

(8) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the governor.

Section 2. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days of the receipt of the statement of consideration the *administrative regulation review* subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the *administrative regulation review* subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The *administrative regulation review* subcommittee's findings shall be published in the administrative register.

(6) After review by the administrative regulation review subcommittee, the commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the regulation.

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed.

(8) The subcommittee shall be impowered to make the same non binding determinations and to exercise the same authority as the administrative regulation review subcommittee as provided in KRS 13A.030(2) and (3).

(9) Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 3. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee that consideration of the administrative regulation be deferred by *such* [~~the~~] subcommittee.

(2) Upon receipt of the request the subcommittee shall defer consideration of the proposal.

(3) The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under KRS 13A.310.

(4) *A* [~~The~~] subcommittee shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation.

(5) Except as provided in subsections (1) through (4) of this section neither the promulgating administrative body, the commission, nor the *administrative regulation review subcommittee or subsequently assigned* subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 4. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired

that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption.

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter on the agenda of the next scheduled meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee. *Such* [~~The~~] subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 5. KRS 13A.320 is amended to read as follows:

When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee, nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

Section 6. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day *a* [~~the~~] subcommittee meets to consider the proposal *pursuant to KRS 13A.290(7).*

(2) Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(6), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

(3) Any regulation which became effective or contains an amendment which became effective subsequent to a finding by either the administrative regulation review subcommittee or subsequently assigned subcommittee that the regulation or amendment thereto was deficient as provided in KRS 13A.030(2)(a) or KRS 13A.290(8), shall be effective only until the effective date for acts of the next succeeding regular session of the general assembly on which date it shall expire, unless enacted into statute by the regular session of the general assembly following its adoption.

(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute by the next regular session of the general assembly. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the general assembly.

(5) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly that all administrative regulations shall be reviewed every four (4) years. In order to carry out such intent, each jurisdictional subcommittee shall review the administrative regulations which the legislative research commission deems to be in its jurisdiction within such four (4) year period. The subcommittee shall schedule its review of such administrative regulations so that it has completed one-half (1/2) of its work during the first two (2) year period.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) At its July meeting in 1988, the legislative research commission shall determine the subcommittee of appropriate jurisdiction over the subject matter of each title of the Kentucky administrative regulations service. The legislative research commission shall inform each jurisdictional subcommittee of the administrative regulations it shall review during such four (4) year period.

(2) The subcommittee shall:

(a) Hold public meetings during which such administrative regulations shall be reviewed; and

(b) Give notice not less than fourteen (14) days prior to the hearing of the time, date, place, and subject matter of the hearing to the administrative body which promulgated the administrative regulations being reviewed and to interested persons. The subcommittee shall schedule the hearings so that it has completed its review of all administrative regulations it has scheduled for review during each two (2) year period no later than October 30 of odd numbered years and shall submit to the legislative research commission a list of all those administrative regulations reviewed by it no later than November 30 of odd numbered years.

(3) If the subcommittee determines that an administrative regulation is deficient for any of the reasons set forth in KRS 13A.030(2)(a), it shall submit a written report to the legislative research commission, setting forth, in detail, the reasons for its conclusion that the administrative regulation is deficient. Such report shall be sent to the legislative research commission no later than November 30 of odd numbered years. The legislative research commission shall transmit a copy of such report to the speaker of the House of Representatives and to the President Pro Tempore of the Senate for distribution to the members of the general assembly.

(4) Any administrative regulation which the subcommittee finds is deficient pursuant to subsection (3) of this section shall be effective only until the effective date for Acts of the next succeeding regular session of the general assembly on which date they shall expire unless enacted into statute by the regular session of the general assembly following such review.

(5) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (4) of this section shall prepare legislation proposing enactment of such administrative regulation into statute by the next regular session of the general assembly. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the general assembly.

(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

Section 9. The following KRS sections are repealed:

13A.260 Assignment of proposed administrative regulation to a subcommittee for review and consideration.

13A.345 Expiration of administrative regulations — Enactment of regulations into statute.

Section 10. Whereas, the provisions of this Act would alleviate confusion in the application and enforcement of administrative regulations by executive agencies and would facilitate planning by such agencies of future systems of administrative regulation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **SB 2** is as follows:

SB 2, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ninety (90) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) If it is intended that an emergency administrative regulation's subject matter remain in effect then the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

(6) The *administrative regulation review subcommittee or subsequently assigned* subcommittee may review an emergency administrative regulation and may recommend to the governor that the regulation be revoked.

(7) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.

(8) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the governor.

Section 2. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days of the receipt of the statement of consideration the *administrative regulation review* subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the *administrative regulation review* subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The *administrative regulation review* subcommittee's findings shall be published in the administrative register.

(6) Upon a finding by the administrative regulation review subcommittee that the regulation is deficient in a manner provided in KRS 13A.030(2)(a), the commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the regulation.

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed.

(8) The subcommittee shall be impowered to make the same non binding determinations and to exercise the same authority as the administrative regulation review subcommittee as provided in KRS 13A.030(2) and (3).

(9) Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 3. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee that consideration of the administrative regulation be deferred by *such* [~~the~~] subcommittee.

(2) Upon receipt of the request the subcommittee shall defer consideration of the proposal.

(3) The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under KRS 13A.310.

(4) *A* [~~The~~] subcommittee shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation.

(5) Except as provided in subsections (1) through (4) of this section neither the promulgating administrative body, the commission, nor the *administrative regulation review subcommittee or subsequently assigned* subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 4. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption.

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except

by repromulgation as a totally new matter.

(5) If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter on the agenda of the next scheduled meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee. *Such* [~~The~~] subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 5. KRS 13A.320 is amended to read as follows:

When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the *administrative regulation review subcommittee or subsequently assigned* subcommittee, nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

Section 6. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day the *administrative regulation review* subcommittee meets to consider the proposal *if the agency has complied with all the provisions of KRS Chapter 13A and any regulations promulgated under this chapter unless the administrative regulation review subcommittee finds that the regulation is deficient in a manner provided in KRS 13A.030(2)(a).*

(2) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has been found to be deficient in a manner provided in KRS 13A.030(2)(a) by the administrative regulation review subcommittee shall be considered as adopted, and shall become effective as of the adjournment on the day a subcommittee meets to review the proposal pursuant to KRS 13A.290(7). Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(6), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

(3) Any regulation which became effective pursuant to subsection (2) of this section or contains an amendment which became effective pursuant to subsection (2) of this section, subsequent to a subcommittee finding that the regulation or amendment thereto was deficient as authorized by KRS 13A.290(8), shall be effective only until the effective date for acts of the next succeeding regular session of the general assembly on which date it shall expire, unless enacted into statute by the regular session of the general assembly following its adoption.

(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute by the next regular session of the general assembly. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the general assembly.

(5) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of KRS Chapter 13A and any regulations promulgated under this chapter shall be considered procedurally defective and void.

(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

A finding of non-compliance with KRS 13A.030(2)(a) made by both the administrative regulation review subcommittee and appropriate jurisdictional subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding the legislative research commission may institute legal proceedings in Franklin Circuit Court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly that all administrative regulations shall be reviewed every four (4) years. In order to carry out such intent, each jurisdictional subcommittee shall review the administrative regulations which the legislative research commission deems to be in its jurisdiction within such four (4) year period. The subcommittee shall schedule its review of such administrative regulations so that it has completed one-half (1/2) of its work during the first two (2) year period.

SECTION 9. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) At its July meeting in 1988, the legislative research commission shall determine the subcommittee of appropriate jurisdiction over the subject matter of each title of the Kentucky administrative regulations service. The legislative research commission shall inform each jurisdictional subcommittee of the administrative regulations it shall review during such four (4) year period.

(2) The subcommittee shall:

(a) Hold public meetings during which such administrative regulations shall be reviewed; and

(b) Give notice not less than fourteen (14) days prior to the hearing of the time, date, place, and subject matter of the hearing to the administrative body which promulgated the administrative regulations being reviewed and to interested persons. The subcommittee shall schedule the hearings so that it has completed its review of all administrative regulations it has scheduled for review during each two (2) year period no later than October 30 of odd numbered years and shall submit to the legislative research commission a list of all those administrative regulations reviewed by it no later than November 30 of odd numbered years.

(3) If the subcommittee determines that an administrative regulation is deficient for any of the reasons set forth in KRS 13A.030(2)(a), it shall submit a written report to the legislative research commission, setting forth, in detail, the reasons for its conclusion that the administrative regulation is deficient. Such report shall be sent to the legislative research commission no later than November 30 of odd numbered years. The legislative research commission shall transmit a copy of such report to the speaker of the House of Representatives and to the President Pro Tempore of the Senate for distribution to the members of the general assembly.

(4) Any administrative regulation which the subcommittee finds is deficient pursuant to subsection (3) of this section shall be effective only until the effective date for Acts of the next succeeding regular session of the general assembly on which date they shall expire unless enacted into statute by the regular session of the general assembly following such review.

(5) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (4) of this section shall prepare legislation proposing enactment of such administrative regulation into statute by the next regular session of the general assembly. Such legislation shall be submitted to the legislative research commission and may be introduced by any member of the general assembly.

(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

Section 10. If any section of this Act is declared unconstitutional, the remaining parts of this Act shall remain in force.

Section 11. The following KRS sections are repealed:

13A.260 Assignment of proposed administrative regulation to a subcommittee for review and consideration.

13A.345 Expiration of administrative regulations — Enactment of regulations into statute.

Section 12. Whereas, the provisions of this Act would alleviate confusion in the application and enforcement of administrative regulations by executive agencies and would facilitate planning by such agencies of future systems of administrative regulation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 47, AN ACT relating to campaign finance regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of one hundred dollars ($100) received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate nor committee, nor anyone on their behalf, shall accept more than four thousand dollars ($4,000) contributed by any one (1) person in any one (1) election.

(6) No person shall contribute more than four thousand dollars ($4,000) to any one (1) candidate in any one (1) election.

(7) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(8) *No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.*

(9) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election. [~~No elected statewide official shall actively solicit contributions to retire a campaign debt during his term of office, nor shall such official accept contributions to retire his campaign debt during his term of office from any person receiving payment or compensation for services rendered pursuant to a contract with state government.~~]

(10) The provisions of subsections (8) and (9) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

Section 2. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, age, if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, age, if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds three hundred dollars ($300), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including

the name, address, age, if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be postmarked within ten (10) days after June 30 and December 31 for opposed candidates and December 31 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. [~~A candidate does not have to file supplemental reports if the debt is the candidate's personal note, except that an elected official who receives contributions subsequent to his election to retire his personal note, shall continue to file supplemental reports.~~] All contributions [~~made both prior and subsequent to the election~~] shall be subject to [~~the maximum individual contribution limit imposed by~~] KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received;

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

SB 53, AN ACT relating to campaign finance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of one hundred dollars ($100) received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate nor committee, *exclusive of a permanent committee,* nor anyone on their behalf, shall accept more than four thousand dollars ($4,000) contributed by any one (1) person in any one (1) election *and no permanent committee shall accept more than two thousand dollars ($2,000) contributed by any one (1) person in any one (1) election.*

(6) No person shall contribute more than four thousand dollars ($4,000) to any one (1) candidate *nor more than two thousand dollars ($2,000) to any one (1) permanent committee* in any one (1) election.

(7) *No permanent committee as defined in KRS 121.015(3)(c) shall contribute more than four thousand dollars ($4,000) to any one (1) candidate in any one (1) election.*

(8) No candidate, committee, or anyone on its behalf, shall accept more than four thousand dollars ($4,000) contributed by any one (1) permanent committee as defined in KRS 121.015(3)(c) in any one (1) election.

(9) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(10)[~~(8)~~] No elected statewide official shall actively solicit contributions to retire a campaign debt during his term of office, nor shall such official accept contributions to retire his campaign debt during his term of office from any person receiving payment or compensation for services rendered pursuant to a contract with state government.

Section 2. Whereas this Act establishes a limitation upon the amount of contributions which may be made by a permanent committee to a candidate and campaign expenditures are continuing to increase, an emergency is declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

The Committee on Natural Resources and Environment reported **HB 469** and **HJR 60**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 469, AN ACT relating to hunters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 150.700 TO 150.990 IS CREATED TO READ AS FOLLOWS:

(1) No person shall intentionally obstruct or disrupt the right of a person to lawfully take wildlife by hunting, trapping, or fishing.

(2) The attorney general or any directly affected person may bring an action to restrain conduct unlawful under this section and may bring an action to recover damages.

(3) The officers of the department of fish and wildlife resources, or any other peace officer, police officer, state police officer, or sheriff may enforce this section.

(4) This section shall not apply to incidental interference with the taking of wildlife by hunting, trapping, or fishing caused by lawful activities including, but not limited to, farming, mining, or recreation.

(5) A person shall be guilty of a Class B misdemeanor upon the first violation of this section. A subsequent violation shall be a Class A misdemeanor.

HJR 60, A JOINT RESOLUTION creating a task force for the study of waste management in Kentucky.

WHEREAS, in 1984 Kentucky industries produced approximately 9,227,400 tons of hazardous waste, transported 67,098 tons to other states for treatment or disposal, and received 39,723 tons from other states for treatment or disposal; and

WHEREAS, there are approximately 107 permitted solid waste landfills and 400 public and private waste haulers to manage the approximately 3,425,780 tons of solid waste produced in Kentucky each year; and

WHEREAS, in October 1986 the U.S. Congress enacted the Superfund Amendments and Reauthorization Act requiring each state to draft a plan by October 1989 for an adequate future capacity to manage hazardous waste or face a cut-off of federal money to clean-up hazardous waste dumpsites on the Superfund National Priority List; and

WHEREAS, Kentucky has ten hazardous waste dumpsites on the National Priority List, four of which are estimated to cost a total of $40,200,000, ninety percent of which will be paid for under the federal Superfund leaving ten percent to be paid by the state; and

WHEREAS, the nature and characteristics of hazardous and solid waste require technical and complex regulation which is inappropriate for statutory enactment and must therefore be carried out through regulations; and

WHEREAS, developing a regulatory program for the safe management of hazardous and solid waste could be best accomplished in a spirit of cooperation between state regulators, the public, and the regulated community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission shall appoint the following members to serve on a task force for the study of waste management: five members of the General Assembly, three of whom serve on the Interim Joint Committee on Agriculture and Natural Resources; a representative of the Economic Development Cabinet; a representative of the Natural Resources and Environmental Protection Cabinet; a representative of the Kentucky County Judges Association; a representative of the Kentucky Chamber of Commerce; a representative of the waste incineration industry; a representative of the waste landfilling industry;

a representative of the public utility industry; a representative of the coal industry; two representatives of groups active in the environmental community; and two members from the state-at-large with technical expertise in waste.

Section 2. That the purpose of the task force shall be to discuss approaches for the safe management of hazardous and solid waste in a non-adversarial forum. The task force shall provide for the exchange of ideas and technical knowledge, and discussion of public concerns between state regulators, the regulated community and the public. The task force shall advise the General Assembly on ways in which the state can regulate hazardous and solid waste to best protect the health and welfare of the public, address the concerns of local communities, and yet, not overregulate industry.

Section 3. That the task force shall review and encourage the state's emphasis on waste reduction and waste minimization. This policy will consider the combination of options which state and local programs can use to encourage waste reduction and sound resource management such as: training and technical assistance to the regulated community, the public, and local officials; development of a comprehensive plan and planning process for waste minimization and waste management in Kentucky consistent with Kentucky's plans and programs for overall economic development and balanced growth; equitable and timely enforcement of state waste management laws and regulations; and regulatory programs which encourage regional approaches to waste management as well as integration with local and area waste management plans.

Section 4. That the task force shall report any findings and recommendations to the Legislative Research Commission by September 30, 1989.

Section 5. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HJR 60** is as follows:

Amend printed copy of **HJR 60** on page 2, line 10, by inserting after the word "Commerce;" the following: "a representative of Associated Industries of Kentucky; a representative of the National Solid Wastes Management Association;"

Calendar

HB 60, **HB 401**, **SB 10**, **SCR 1**, **HB 351** and **HB 352** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 425 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 347, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HB 347**. Agreed.

Representative Blevins moved that **HB 347**, as amended, be passed.

Representative Farrow inquired whether a fiscal note should be attached to **HB 347**.

The Speaker ruled a fiscal note was not required.

On the roll call the vote was: Yeas 59, Nays 30. (See February 4, 1988 roll call on **HB 347** - Appendix A.)

HB 347 was passed, as amended, and the title agreed to.

Representative Blevins moved that the vote by which **HB 347**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of the following **HR 76**:

HR 76. A RESOLUTION honoring the University of Kentucky varsity cheerleading squad.

WHEREAS, the University of Kentucky varsity cheerleading squad recently defended its national title in the Holiday Inn/Coca-Cola College Cheerleading National Championship; and

WHEREAS, more than 170 teams submitted video tapes of their abilities at Sea World in San Diego, California on January 9, 1988; and

WHEREAS, the University of Kentucky varsity cheerleading squad retained its national championship title by again capturing first place in the competition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly honors and commends the University of Kentucky varsity cheerleading squad upon the occasion of retaining its national title in the 1988 College Cheerleading National Championship.

Section 2. That this honorable body hails Advisor T. Lynn Williamson, Coach Dale Baldwin and squad members Barry Applegate, Rebecca Bach, Jeff Baker, Stuart Haven, Chance Maguire, Donna Parsons, Bobbi Wilson, Rick Dynis, Evan Elliott, Lori Gooch, John Jackson, Tracy Neal and Shawn Tackett for their outstanding performance.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to University of Kentucky President David P. Roselle, cheerleading advisor T. Lynn Williamson, coach Dale Baldwin and to every member of the University of Kentucky varsity cheerleading squad, 304 Administration Building, University of Kentucky, Lexington, Kentucky 405060032.

HR 76 was passed by voice vote.

Representative LeMaster moved that a call of the roll be taken to show co-sponsors of **HR 76**. Agreed.

The following embers requested their names be be added as Co-Sponsors of **HR 76**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

HB 304, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of Committee Substitute to **HB 304**. Agreed.

Representative Lundergan moved that **HB 304**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 5. (See February 4, 1988 roll call on **HB 304** - Appendix A.)

HB 304, by way of Committee Substitute, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 304**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 415, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Committee Amendment No. 1 to **HB 415**. Agreed.

Representative O'Brien moved that **HB 415**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 8. (See February 4, 1988 roll call on **HB 415** - Appendix A.)

HB 415, as amended, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 415**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 446, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 446**. Agreed.

Representative B. Smith moved that **HB 446**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 4, 1988 roll call on **HB 446** - Appendix A.)

HB 446, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 446**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 448 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 448** be passed.

On the roll call the vote was: Yeas 71, Nays 18. (See February 4, 1988 roll call on **HB 448** - Appendix A.)

HB 448 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 448** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 477 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 477** be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See February 4, 1988 roll call on **HB 477** - Appendix A.)

HB 477 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 477** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Worthington moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Worthington moved the adoption of Legislative Citation No. 54. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and cites TRACEY ANN CONLEY a graduate of Fleming County High School, for the honor of being chosen Miss Ewing-Fleming County Fair in July of 1987. Further, in competition with representatives from seventy-three other counties at the 32nd Annual Kentucky Association of Fairs and Horse Shows you were crowned Miss Kentucky County Fair. This prestigious honor will culminate with your reign over the Kentucky State Fair and all its activities in the summer of 1988 in Louisville, Kentucky.

The House of Representatives joins Representative Pete Worthington in saluting you and wishing you well with this great honor. (Sponsored by Representative Worthington)

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 600, by Representative Overstreet: AN ACT relating to crimes and punishments.

HB 601, by Representatives Farrow, Bronger, Overstreet, Cline, Worthington, L. Clark, Yates, Lundergan and B. Richardson: AN ACT relating to retirement.

HB 602, by Representative Moberly: AN ACT relating to nonpublic colleges.

HB 603, by Representatives Overstreet and Deskins: AN ACT relating to juries and jurors.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 314, HB 397, HB 569.**

Transportation: **HB 81, HB 455, HB 437, HB 416, HB 434, HB 533.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Health and Welfare: **HB 471.**

Motions, Petitions and Communications

Representative Burch moved that **HB 471** be reassigned to the Committee on Education. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representative Kerr; **HB 204**, Representative Noland; **HB 304**, Representative Blevins; **HB 433**, Representative Robinson; **HB 454**, Representative Layman; **HB 469**, Representative Lefevers; **HB 480**, Representatives Blevins, P. Clark, Handy, Riner; **HB 496**, Representatives Bruce, Crupper, Cyrus, McBee; **HB 526**, Representative Lile; **HB 539**, Representative Lile; **HB 540**, Representative Lile; **HB 550**, Representative Worthington; **HB 551**, Representative Worthington; **HB 552**, Representative Worthington; **HB 567**, Representatives K. Harper, Lile, Meyer; **HB 586**, Representative Will.

The following member requests that her name be withdrawn as co-sponsor:

HB 400, Representative Northup.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 6**, by Representative Barrows:

Amend printed copy of **HB 6** on page 2, lines 3 through 6, after *"(3)"* delete all material and insert the following in lieu thereof: *"At any time of each day in all public schools, the teacher in charge of the room may announce that silence shall be observed."*

Floor Amendment No. 1 to **HB 328**, by Representative Ackerson:

Amend printed copy of **HB 328** on page 1, lines 1-21, to delete the same and to insert in lieu thereof:

"Section 1. KRS 508.010 is amended to read as follows:

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon, [~~or~~] a dangerous instrument, *or a bodily part or appendage, including but not limited to hands and feet under circumstances manifesting extreme indifference to the value of human life;* or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B Felony."

And on page 2, lines 1-26, to delete same;

And on page 3, lines 1-23, to delete the same.

Floor Amendment No. 1 to **HJR 3**, by Representative Worthington:

Amend printed copy of **HJR 3** on page 2, after line 9, insert the following:

"Section 3. A local school board may post in classrooms excerpts from the Declaration of Independence, Constitution of the United States, Constitution of Kentucky, including the preamble, statements and pictures of the presidents of the United States, statements by members of the Congress of the United States as contained in the Congressional Record, the national motto, and the Pledge of Allegiance.

In the reproduction of the material, certain portions may be highlighted or emphasized over other portions."

The Clerk announced the following meetings:

The Budget Review Subcommittee on Natural Resources and Environment, February 5, 1988, Room 104, 8:00 a.m.

The Budget Review Subcommittee on Transportation, February 5, 1988, 8:30 a.m.

The Budget Review Subcommittee on Education upon adjournment, February 4, 1988.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 5, 1988.

On the roll call the vote was yeas 81-Adams, Adkins, Allen, Ark, Arnold, Ballard, Barrows, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 6-Casebier, Deskins, Heleringer, LeMaster, Overstreet, Preston.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 5, 1988

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Heleringer, A. Jones and Preston.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 4, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 49**, **SB 106**, **SB 145**, **SB 173** and **HB 398** with Senate Amendment.

Introduction of Bills and Resolutions

HB 604, by Representative Rapier: AN ACT relating to education.

HB 605, by Representative Lear: AN ACT relating to motor vehicle registration.

HB 606, by Representative Noe: AN ACT relating to school districts.

HB 607, by Representative Moberly: AN ACT relating to ground water.

HR 78, by Representative Donnermeyer: A RESOLUTION requesting that the Legislative Research Commission urge the state auditor to periodically audit organizations receiving public moneys.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 597**.

Appropriations and Revenue: **HB 591**, **HB 596**.

Business Organizations and Professions: **HB 593**.

Education: **HB 602**.

Health and Welfare: **HB 592**, **HB 595**.

Judiciary-Civil: **HB 603**.

Judiciary-Criminal: **HB 598**, **HB 600**.

State Government: **HB 594**, **HB 599**, **HB 601**.

Transportation: **SB 6**.

Report of Committees

The Committee on Rules reported **HB 6**, **HB 83**, **HB 407**, **HB 460**, **HB 60**, **HB 351**, **HB 352**, **SB 10** and **SCR 1** have been posted for passage in Orders of the Day, February 8, 1988, 1988.

The Committee on Rules reported the following Bill has been recommitted:

Business Organizations and Professions: **HB 294**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 36**, **HB 504**, **HB 515**.

Natural Resources and Environment: **HCR 69**.

Labor and Industry: **HB 441**.

Calendar

HB 196, **HB 300**, **HB 50**, **HB 522**, **HB 433**, **HB 479**, **SB 2**, **SB 47**, **SB 53**, **HB 469** and **HJR 60** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 449 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 457, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 457**. Agreed.

Representative Cyrus moved that **HB 457**, as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 22. (See February 5, 1988 roll call on **HB 457** - Appendix A.)

HB 457, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 457**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 461, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 461**. Agreed.

Representative Cyrus moved that **HB 461**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See February 5, 1988 roll call on **HB 461** - Appendix A.)

HB 461, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 461**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 413, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Amendment No. 1 to **HB 413**. Agreed.

Representative Ridley moved that **HB 413**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 5, 1988 roll call on **HB 413** - Appendix A.)

HB 413, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 413**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 328**, as amended, be taken from the Clerk's Desk and placed in Orders of the Day. Agreed.

HB 328, as amended by Committee Amendment No. 1, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to **HB 328**. Agreed.

Representative Ackerson moved that **HB 328**, as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 32. (See February 5, roll call on **HB 328** - Appendix A.)

HB 328, as amended, was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 328**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 403 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 403** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 5, 1988 roll call on **HB 403** - Appendix A.)

HB 403 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 403** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 29** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 5, 1988 roll call on **HJR 29** - Appendix A.)

HJR 29 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HJR 29** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 3, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved the adoption of Committee Amendment No. 2 to **HJR 3**. Agreed.

Representative Blevins moved the adoption of Committee Amendment No. 1 to **HJR 3**. Agreed.

Representative B. Richardson inquired whether a fiscal impact note should be attached.

Representative Seum stated a fiscal impact note was not required.

Representative Worthington moved the adoption of Floor Amendment No. 1 to **HJR 3**. Rejected.

Representative Seum moved that **HJR 3**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 5, 1988 roll call on **HJR 3** - Appendix A.)

HJR 3, as amended, was passed and the title agreed to.

Representative Seum moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HJR 3**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HJR 3**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Noe, Noland, O'Brien, Overstreet, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Seum moved that the vote by **HJR 3**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Postings of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 608, by Representative Deskins: AN ACT relating to surface mining.

HB 609, by Representative T. Jones: AN ACT relating to the department for libraries and archives.

HB 610, by Representative Donnermeyer: AN ACT relating to home health care.

HB 611, by Representatives Farrow and B. Smith: AN ACT relating to water service and making an appropriation therefor.

HR 79, by Representative Scorsone: A RESOLUTION calling for the protection of the Henry Watt House from demolition in Lexington, Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 442**, **HB 537**, **HJR 57**.

Judiciary-Civil: **SB 8**, **SB 71**, **SB 77**.

Banking and Insurance: **HB 497**.

Motions, Petitions and Communications (continued)

Representative Donnermeyer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Donnermeyer moved the adoption of the following **HR 78**:

HR 78. A RESOLUTION requesting that the Legislative Research Commission urge the state auditor to periodically audit organizations receiving public moneys.

WHEREAS, it is desirable that all organizations totally comprised of political subdivisions, which are the recipients of public funds, be audited periodically so that the public shall be apprised of the purposes for which these funds are expended; and

WHEREAS, it is essential for public funds to be spent for the general welfare of the citizens of the Commonwealth of Kentucky; and

WHEREAS, those organizations, whose members are various political subdivisions, receive public funds from such political subdivisions in the form of subscriptions and membership dues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission urge the state auditor to periodically audit the funds of these organizations to determine whether the funds paid into these organizations are used for a public purpose which benefits the citizens of the Commonwealth of Kentucky.

HR 78 was adopted by voice vote.

Representative B. Smith moved the rules be suspended for the purpose of recording votes. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 328** and **HB 457**. Agreed.

Representative O'Brien moved the rules be suspended for the purpose of recording votes. Agreed.

Representative O'Brien moved that he be recorded as voting "nay" on **HB 457**. Agreed.

Representative O'Brien moved that his vote be changed from "nay" to "yea" on **HB 328**. Agreed.

Representative Maggard moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 457** and **HB 461**. Agreed.

Announcements

The Clerk announced the following meetings:

Appropriations and Revenue Subcommittee on Human Resources, February 8, 1988, 2:00 p.m.

The Committee on Education, February 8, 1988, Willis Room, 1:00 p.m.

Public Hearing on **HCR 61**, February 10, 1988, 10:00 a.m.

The Tobacco Task Force, February 8, 1988, 3:00 p.m.

The Committee on Rules, upon adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 8, 1988.

On the roll call the vote was yeas 80-Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Walker, White, Will, Worthington, Yates. Nays 5-Bronger, Casebier, Ford, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 8, 1988

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 5, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 169**.

Introduction of Bills and Resolutions

HB 612, by Representative Stumbo: AN ACT relating to reorganization.

HB 613, by Representative Stumbo: AN ACT relating to the historic properties advisory commission.

HR 80, by Representatives Strong, Maggard, Noland and Mason: A RESOLUTION commending the Kentucky River Area Development District.

HJR 81, by Representatives Reinhardt, Gedling, Riner, Geveden, Strong, Freibert, Siler, Lefevers, Noland, J. Harper, Napier, Altman, Ford, Johnson, Arnold, Scorsone, Hoover and Adams: A JOINT RESOLUTION urging the Department of Education to use any available Federal money to develop and fund community education programs which will promote parental involvement in the education of their children.

HR 82, by Representative Hatcher: A RESOLUTION honoring Mrs. Mae Street Kidd.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Education: **HB 604, HB 606, SB 49, SB 173.**

Health and Welfare: **HB 610.**

Natural Resources and Environment: **SB 106, HB 607, HB 608, HB 611.**

State Government: **HB 609, SB 145.**

Transportation: **HB 605.**

Report of Committees

The Committee on Rules reported **HB 348, HB 401, HB 50, HB 469, HB 479, HJR 60, SB 2, SB 47** and **SB 53** have been posted for passage in Orders of the Day, February 9, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular

Orders of the Day, February 9, 1988: **HB 425**, **HB 449**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 280**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 193**, **HB 518**, **HB 551**, **HB 552**, **HB 565**, **HB 558**, **HB 571**, **HB 587**.

Counties and Special Districts: **HB 564**.

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Labor and Industry: **HB 187**.

Orders of the Day

HB 341 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 341** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 8, 1988 roll call on **HB 341** - Appendix A.)

HB 341 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 341** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 460**. Agreed.

Representative Johnson moved that **HB 460**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 8, 1988 roll call on **HB 460** - Appendix A.)

HB 460, as amended, was passed.

Representative Johnson moved the adoption of Floor Title Amendment to **HB 460**. Agreed; and the title was agreed to.

Representative Johnson moved that the vote by which **HB 460**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 60, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Committee Amendment No. 1 to **HB 60**. Agreed.

Representative Gedling moved that **HB 60**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 8, 1988 roll call on **HB 60** - Appendix A.)

HB 60, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 60**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 351, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 2 to **HB 351**. Agreed.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 351**. Agreed.

Representative Richards moved that **HB 351**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 8, 1988 roll call on **HB 351** - Appendix A.)

HB 351, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 351**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hatcher moved the adoption of the following **HR 82**:

HR 82, A RESOLUTION honoring Mrs. Mae Street Kidd.

WHEREAS, Mrs. Mae Street Kidd is a former member of the General Assembly of the Commonwealth of Kentucky; and

WHEREAS, Mrs. Mae Street Kidd has unselfishly dedicated many hours of her time serving various organizations, including the Public Relations Society of America, the North End Democrat Club, the 12th Ward Democrat Club, and the Jefferson County Democrat Women's Club; and

WHEREAS, Mrs. Mae Street Kidd is a former board member of the Louisville Urban League Guild and is a life member of the NAACP; and

WHEREAS, Mrs. Mae Street Kidd has received various awards and honors, including the Outstanding Kentuckians Honor Award in Human Relations (1955), the Louisville Defender's Emancipation Exposition Award (1963), the Louisville Urban League Honor Award (1967), the King-Kennedy Award for dedication, diplomacy, and legislative skill (1968), the Fellowship Award for Outstanding Service, West Chestnut Street Baptist Church (1981), and the United Cerebral Palsy Humanitarian Service Award; and

WHEREAS, Mrs. Mae Street Kidd ably served the Commonwealth of Kentucky as representative of the 41st District from 1968 to 1984; and

WHEREAS, Mrs. Mae Street Kidd celebrates her birthday today, February 8th;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives extends warmest birthday greetings to our distinguished former colleague, Mrs. Mae Street Kidd.

Section 2. That when the House of Representatives does adjourn this day Monday, February 8, 1988, it does so in honor of Mrs. Mae Street Kidd.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mrs. Mae Street Kidd, 2308 W. Chestnut St., Louisville, Kentucky, 40211.

HR 82 was adopted by voice vote.

Representative Hatcher moved that a call of the roll be taken to show co-sponsors of **HR 82**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 82**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

HB 352 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 352** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 8, 1988 roll call on **HB 352** - Appendix A.)

HB 352 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 352** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 453, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Committee Amendment No. 1 to **HB 453**. Agreed.

Representative B. Richardson moved that **HB 453**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 3. (See February 8, 1988 roll call on **HB 453** - Appendix A.)

HB 453, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 453**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 398** is as follows:

Amend printed copy of **HB 398** on page 45, line 4, by adding after the period the following:

"The number of sick leave days for which the employe is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine creditable compensation."

Representative Meyer moved that the House concur in the Senate Amendment to **HB 398**. Agreed.

Representative Meyer moved that **HB 398**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 8, 1988 roll call on **HB 398**.)

HB 398, as amended by the Senate, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 398**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 614, by Representative Burch: AN ACT relating to pest control.

HB 615, by Representatives Bronger and Heleringer: AN ACT relating to sales and use taxes.

HB 616, by Representatives Clarke and B. Richardson: AN ACT relating to revenue and taxation.

HB 617, by Representative Donnermeyer: AN ACT relating to hospitality education.

HB 618, by Representative Curd: AN ACT relating to medical and accident insurance for students enrolled in state-operated vocational schools.

HB 619, by Representative Ackerson: AN ACT relating to competency of testimony.

HB 620, by Representative B. Jones: AN ACT relating to motor vehicle license plates.

HB 621, by Representative Lear: AN ACT relating to psychologists.

HB 622, by Representative T. Jones: AN ACT relating to foundation program funds.

HB 623, by Representative T. Jones: AN ACT relating to foundation program funds.

HB 624, by Representative T. Jones: AN ACT relating to foundation program funds.

HB 625, by Representative Johnson: AN ACT relating to liquefied petroleum gas.

HB 626, by Representative Seum: AN ACT relating to crimes and punishments.

HB 627, by Representative Donnermeyer: AN ACT relating to penalties for motor vehicle offenses.

HB 628, by Representative Worthington: AN ACT relating to proposing to amend the Constitution of Kentucky relative to legislative powers.

HB 629, by Representatives Gedling and Geveden: AN ACT relating to tax collectors.

HR 83, by Representative Kerr: A RESOLUTION adjourning the House of Representatives in memory of Willard V. Benson.

HR 84, by Representatives Gedling, P. Clark, Strong and Geveden: A RESOLUTION regarding tobacco export to South Korea.

HR 85, by Representatives Casebier and Lile: A RESOLUTION honoring the Pleasure Ridge Park Woman's Club.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 506, HB 428, HB 429, HB 430, HB 431, HB 432, HB 547.**

Health and Welfare: **HB 373, HB 501, HB 545, HB 576, HB 561, HB 20, HB 574.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Judiciary-Criminal: **HB 493.**

Motions, Petitions and Communications (continued)

Representative Kerr moved to suspend the rules to act upon a Resolution. Agreed.

Representative Kerr moved the adoption of the following **HR 83**:

HR 83, A RESOLUTION adjourning the House of Representatives in memory of Willard V. Benson.

With deepest respect, we pay tribute to the memory of Willard V. Benson.

WHEREAS, Willard V. Benson of Morning View, Kentucky, traversed these earthly bounds on Friday, January 29, 1988; and

WHEREAS, Willard V. Benson was a dedicated employe of the United States Department of Agriculture for thirty-eight years and served in the capacity of Kenton County executive director of the federal Agriculture Stabilization and Conservation Commission; and

WHEREAS, Willard V. Benson was a highly respected citizen of his community; and

WHEREAS, Willard V. Benson was a beloved husband, father and grandfather;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of Willard V. Benson.

Section 2. That the House of Representatives extends its sincere and most heartfelt sympathy to his family.

Section 3. That when the House of Representatives adjourns this day, Monday, February 8, 1988, it does so in memory of Willard V. Benson.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mrs. Esther Benson, Box 68, Route 2, Bracht-Piner Road, Morning View, Kentucky, 41063.

HR 83 was adopted by voice vote.

Representative Bruce moved that he be recorded as voting "yea" on **HB 398**. Agreed.

Representative B. Jones moved that he be recorded as voting "yea" on **HB 398**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 83**, by Representative Reinhardt:

Amend printed copy of **HB 83** on page 1, line 9, after the word "scales" by inserting the following: "*or by use of the bill of lading to determine if the vehicle is overweight*"; and

On page 1, line 9, by placing an opening bracket in front of the word "and" and by placing a closing bracket on line 12, after the word "stop" and striking through all enclosed language; and

On page 1, lines 12 through 15, by deleting the following language: *The officer shall not determine that the operation of the motor truck, semitrailer, or trailer is unlawful because of excess weight unless he has weighed it either by portable or stationary scales.*

Floor Amendment No. 1 to **HB 339**, by Representative Blevins:

Amend printed copy of **HB 339** on page 1, line 8, to delete "*or when atmospheric conditions*"; and

on page 1, lines 9, 10, and 11, to delete the same; and

on page 1, line 12, to delete "*exceptions for parked vehicles*"; and

on page 1, below line 20, to add the following:

"*(3) Every vehicle upon a highway in this state at any time when atmospheric conditions necessitate the use of windshield wipers, shall display lighted headlamps and illuminating devices as hereafter required for different classes of vehicles, subject to exceptions for parked vehicles. No points shall be assessed for a violation of this subsection.*

Section 2. This Act shall become effective on January 1, 1989."

Floor Amendment No. 1 to **SB 10**, by Representative Scorsone:

Amend printed copy of **SB 10** on page 4, line 4 after the period "." by adding the following: "*The cabinet shall, from the trust funds received for energy crisis or prevention services for low-income households, set aside the sum of two million dollars ($2,000,000) for pilot projects to be conducted as provided for in Section 4 of this Act.*";

and on page 4, after line 21 by adding the following sections:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

As used in Sections 5 through 9 of this Act, unless the context requires otherwise:

(1) "Percentage of income payment pilot project" shall mean an experimental program whereby low-income customers who heat their homes with either natural gas or electricity shall pay a set percentage of their income in regular monthly payments in return for assurance of continued utility service;

(2) "Community action agency" shall mean any corporation organized and defined pursuant to KRS 273.410 to 273.455;

(3) "Gas and electric utility service providers" shall include electric or gas utilities regulated by the public service commission pursuant to KRS 278.010 and any like service operated by a city pursuant to provisions in KRS Chapter 96; and

(4) "Low-income home energy assistance program" shall mean the federal energy assistance block grant program established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. Section 8621 et seq.

SECTION 5. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an energy assistance board to monitor percentage of income payment pilot projects to be funded from moneys set aside by the cabinet for human resources as directed in Section 2 of this Act.

(2) The energy assistance board, herein referred to as the "board", shall be comprised of the secretary of the finance and administration cabinet, the secretary of the cabinet for human resources, the secretary of the energy cabinet, the secretary of the revenue cabinet and the state treasurer. The secretary of finance and administration shall serve as chairperson.

(3) The board shall meet as needed as determined by the chairperson and upon the call of the chairperson.

(4) Upon completion of the report to the 1992 general assembly as required in Section 9 of this Act, the board shall be dissolved and cease to function.

SECTION 6. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources, herein referred to as the "cabinet", shall solicit from gas and electric utility providers and community action agencies proposals for percentage of income payment pilot projects for inclusion in the fiscal year 1990 low-income home energy assistance block grant plan.

(2) Upon receipt of the proposals for percentage of income payment pilot projects the cabinet shall provide for a hearing or hearings in order to take public comments on the submitted proposals.

(3) The cabinet for human resources shall prioritize all submitted proposals according to the criteria set out in Section 8 of this Act and shall confirm the estimated proposal costs that would be required for each proposal if implemented. The cabinet shall present the project proposals and its prioritization of those proposals to the energy assistance board on or before May 15, 1989. In addition, any proposal which in the cabinet's view should not be funded because of potential problems either in project design or in the administering of the project shall be noted.

(4) The board shall select for funding those projects if any that it determines would best demonstrate the percentage of income payment concept in the most cost-effective manner possible.

(5) By June 1, 1989 the board shall notify the cabinet of its selection and shall direct the cabinet to include those projects in its plan for the fiscal year 1990 low-income home energy assistance program.

(6) Once any pilot project is approved as part of the fiscal year 1990 low-income home energy assistance block grant program, the cabinet shall contract with the utility or community action agency to implement the pilot project and shall authorize the withdrawal of the trust fund moneys for the purposes provided for and the amounts specified in the approved plan.

(7) The board shall determine in the selection process a sufficient amount of money to be reserved in case of project overruns. Moneys beyond the amount originally contracted for shall only be provided to grantees upon approval by the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall accept for consideration only proposals which:

(a) Conform to all federal regulations and law regarding the low-income home energy assistance block grant programs; and

(b) Set the income eligibility criteria for participants in the project at or below one hundred and ten percent (110%) of the federal poverty guidelines;

(2) A pilot project proposal may include all income-eligible households that the utility or community action agency applicant services. It may be limited to a smaller geographical location served by the applicant, or to a statistical sampling of households served by the applicant.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall give first priority to those proposals which have the greatest potential for contributing knowledge on how a percentage of income payment plan would work in the Commonwealth and on the transferability of the proposed project to statewide implementation.

(2) In addition, the cabinet shall prioritize the proposals according to the following:

(a) Inclusion of conservation incentives;

(b) Amount of participation in and shared costs by gas and electric utility service providers;

(c) Consideration of pre-existing arrearages participants bring into the project;

(d) Estimated administrative costs;

(e) Total estimated costs of the proposed pilot project; and

(f) Ability and experience of the applicant.

(3) In the process of prioritizing the proposed projects the cabinet may confer with the applicants and may discuss possible modifications of individual proposals.

SECTION 9. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall contract with one of the state's universities to evaluate all funded projects for no more than five percent (5%) of the total costs of the projects. The cabinet shall present the completed evaluations to the board on or before September, 1991.

(2) The evaluation shall not be considered part of the low-income home energy assistance block grant but rather a separate initiative. Evaluation costs, other than those associated with securing a state university to do the evaluation, shall be considered program costs rather than administrative costs.

(3) The board shall prepare a report to the 1992 general assembly on the results of the pilot projects and

shall recommend whether a percentage of payment plan should be implemented statewide.";

and on page 4, line 22 by deleting "Section 4" and inserting in lieu thereof "Section 10";

and on page 5, line 3 by deleting "Section 5" and inserting in lieu thereof "Section 11".

Floor Amendment No. 1 to **SB 53**, by Representative Overstreet:

Amend printed copy of **SB 53** on page 3, after line 11, by adding the following:

"*(9) No permanent committee as defined in KRS 121.015(3)(c) shall attempt to circumvent the provisions of this Act by establishing subsidiary committees to carry out any of the purposes of the permanent committee.*"; and

On page 3, line 12, by deleting "*(9)*" and inserting in lieu thereof "*(10)*"; and

On page 3, line 16, by deleting "*(10)*" and inserting in lieu thereof "(11)".

The Clerk announced the following meetings:

Natural Resources and Environment, February 9, 1988, House Chambers, 10:00 a.m.

Labor and Industry, February 9, 1988, Room 104, 9:00 a.m.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 63, Representative P. Clark; **HB 176**, Representatives Adkins, Deskins, Walker; **HB 196**, Representatives Ark, Crupper, Gedling; **HB 204**, Representatives Castleman, White; **HB 339**, Representative Ridley; **HB 349**, Representative Turner; **HB 350**, Representative Turner; **HB 351**, Representatives Turner, Casebier, Ford, Seum; **HB 352**, Representatives Turner, Ford; **HB 353**, Representative Turner; **HB 357**, Representative Ford; **HB 362**, Representatives Johnson, Reinhardt, Riner; **HB 381**, Representative Donnermeyer; **HB 383**, Representative Donnermeyer; **HB 384**, Representative Donnermeyer; **HB 385**, Representative Donnermeyer; **HB 401**, Representative L. Clark; **HB 403**, Representative Donnermeyer; **HB 449**, Representative Altman; **HB 450**, Representative Castleman; **HB 463**, Representatives Callahan, K. Harper; **HB 480**, Representatives Johnson, Burch, Callahan, Reinhardt, Robinson, Todd, Walker; **HB 496**, Representative B. Richardson; **HB 502**, Representative Gedling; **HB 506**, Representative Turner; **HB 550**, Representative K. Harper; **HB 551**, Representative K. Harper; **HB 552**, Representative K. Harper; **HJR 3**, Representative Bruce; **HJR 28**, Representative Donnermeyer.

The following members requests that their names be withdrawn as co-sponsors:

HB 41, Representative Handy; **HCR 61**, Representatives Priddy, B. Smith.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 9, 1988.

On the roll call the vote was yeas 81-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, Handy, J. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Seum, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 6-Bronger, Casebier, Heleringer, LeMaster, Lile, Ridley.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 9, 1988

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 8, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 88, SB 134, HB 14**.

Introduction of Bills and Resolutions

HB 630, by Representatives Stumbo, Blandford, White, Morris, Adkins, Cyrus, Jackson, Overstreet, Deskins, Priddy, Yates, Blevins, Worthington, Arnold, Lundergan, Bronger, Curd, Castleman, Ark, R. Smith, Nett, Gray, Callahan, Kerr and Bruce: AN ACT proposing to amend Sections 71, 82, and 93 of the Constitution of Kentucky relating to terms of elected officials.

HB 631, by Representative Long: AN ACT relating to asbestos and declaring an emergency.

HB 632, by Representatives M. Brown and Gray: AN ACT relating to wages and hours.

HB 633, by Representative L. Clark: AN ACT relating to barbers.

HR 86, by Representative Lyne: A RESOLUTION adjourning the House of Representatives in honor and memory of Moss Walton.

HR 87, by Representatives Cyrus and Siler: A RESOLUTION expressing the concern of the Kentucky House of Representatives regarding labor-management relations.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 615, HB 616**.

Banking and Insurance: **HB 618**.

Business Organizations and Professions: **HB 614**.

Counties and Special Districts: **HB 629**.

Education: **HJR 81, HB 617, HB 622, HB 623, HB 624**.

Energy: **HB 625**.

Health and Welfare: **HB 621**.

Judiciary-Civil: **HB 619.**

Judiciary-Criminal: **HB 626.**

Natural Resources and Environment: **SB 169.**

State Government: **HB 612, HB 613, HB 628.**

Transportation: **HB 620, HB 627.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 597, HB 484.**

Labor and Industry: **HB 476.**

Report of Committees

The Committee on Banking and Insurance reported **HB 317** with Committee Amendment attached thereto, **HB 361, HB 410** with Committee Substitute attached thereto, **HB 497, HB 509** and **SB 112** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 317. AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. The owner shall keep the card in his motor vehicle as prima facie evidence that the required security is currently in full force and effect.

SECTION 2. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The driver of a motor vehicle shall have his valid insurance card in his motor vehicle, or in his immediate possession if he is driving a motor vehicle owned by someone other than the driver and the motor vehicle does not have a valid insurance card in it, and shall display the card upon demand to a peace officer. A peace officer shall issue a citation to a driver who does not display a valid insurance card.

(2) For purposes of subsection (1) of this section a "peace officer" is an officer of the Kentucky state police, a city, county, or urban county police officer.

Section 3. KRS 304.99-060 is amended to read as follows:

(1) The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of this chapter shall:

(a)[~~(1)~~] Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000);

(b)[~~(2)~~] Have the license plates of such vehicle suspended for a period of one (1) year or until such time

as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect; and

(c)[~~(3)~~] For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560.

(2) (a) Any driver who violates Section 2 of this Act shall be fined not less than twelve dollars ($12) nor more than five hundred dollars ($500).

(b) If it appears to the satisfaction of the trial court that any offender under Section 2 of this Act has an insurance card issued to him before his arrest and valid at the time of his arrest, the court may, in its discretion, dismiss the charges against the defendant without fine or cost.

The Committee Amendment No. 1 to **HB 317** is as follows:

Amend printed copy of **HB 317** on pages 1, 2, and 3 by deleting Sections 2 and 3 in their entirety.

HB 361, AN ACT relating to insurance reports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer authorized to write property and casualty insurance in this state shall transmit the following information on its liability insurance experience in this state, itemized for each line of insurance, to the department each year as an addendum to its annual report and to the legislative research commission by the first of March each year:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment income, including net realized capital gains and losses, using appropriate estimates if necessary.

(2) Each health insurer in this state shall transmit the information required in subsection (1) of this section to the department each year as an addendum to its annual report and to the legislative research commission. Each health insurer shall also include in its addendum the percentages obtained by combining incurred claims and increase in policy reserves as a ratio to premiums earned for the most recent calendar year available.

Section 2. KRS 304.3-310, Annual report on workmen's compensation experience by insurers — Departmental summary of information — Review of rates — Order for new rate schedule filings, is repealed.

HB 410, AN ACT relating to property and casualty insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No insurer shall increase the premium for a property or casualty insurance policy unless at least thirty (30) days, seven (7) days in the case of a policy with a policy period of thirty (30) days or less, before the end of the policy period, the insurer shall mail or deliver to the named insured, at the last known address of the named insured, notice of the premium increase or a bill for the renewal premium and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium increase. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

Section 2. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation; and

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least thirty (30) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least thirty (30) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period. The insured may request in writing an explanation of the insurer's reason for a nonrenewal. Upon receipt of such request, the insurer shall provide a written explanation of the specific reason or reasons for the nonrenewal;

(b) No notice of intention not to renew shall be required where the named insured is given notice of the insurer's willingness to renew the policy by mailing or delivering of a renewal notice, bill, certificate, or policy; and

(c) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal.

[~~(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least thirty (30) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, notice of such premium increase or a bill for the renewal premium and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium increase. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.~~]

The Committee Substitute to **HB 410** is as follows:

HB 410, AN ACT relating to property and casualty insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

At least thirty (30) days, seven (7) days in the case of a policy with a policy period of thirty (30) days or less, before the end of the policy period of a property or casualty insurance policy, the insurer shall mail or deliver to the named insured, at the last known address of the named insured, notice of the renewal premium or a bill for the renewal premium and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

Section 2. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation; and

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least thirty (30) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least thirty (30) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period. The insured may request in writing an explanation of the insurer's reason for a nonrenewal. Upon receipt of such request, the insurer shall provide a written explanation of the specific reason or reasons for the nonrenewal;

(b) No notice of intention not to renew shall be required where the named insured is given notice of the insurer's willingness to renew the policy by mailing or delivering of a renewal notice, bill, certificate, or policy; and

(c) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal.

[~~(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least thirty (30) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, notice of such premium increase or a bill for the renewal premium and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium increase. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.~~]

HB 497, AN ACT relating to savings and loan associations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 289 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Control" shall have the meaning accorded the term in the Federal Savings and Loan Holding Company Act, 12 U.S.C. sec. 1730a(a)(2), as amended. "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;

(2) "Deposit" means any demand negotiable order of withdrawal, time certificate, savings deposit, or savings share account made by an individual, corporation, state or federal governmental unit or any other organization without regard to the location of the depositor; however, excluded, from deposits are all inter-savings and loan association or interbank deposits and all deposits in foreign branches and international banking facilities as shown in the reports made by all savings and loan associations to their respective supervisory authorities;

(3) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation;

(4) "Savings and loan association" means any savings and loan association or savings bank organized under the laws of this state, under the laws of any other state, or under the laws of the United States;

(5) "Kentucky savings and loan association" means a savings and loan association having its principal place of business in this state;

(6) "Principal place of business" means:

(a) With respect to a savings and loan association, the state or territory in which the savings and loan association's total deposits are the largest, as shown in the most recent report of condition or summary report filed by the savings and loan association with its supervisory authority; and

(b) With respect to a savings and loan association holding company, the state or territory in which the total deposits of all direct and indirect savings and loan subsidiaries of the savings and loan association holding company are the largest, as shown in the most recent reports of condition or summary reports filed by the savings and loan association holding company and its savings and loan subsidiaries with their respective supervisory authorities;

(7) "Savings and loan association holding company" has the meaning accorded the term in the Federal Savings and Loan Holding Company Act, 12 U.S.C. sec. 1730a(a)(1)(D), as amended, except that the term shall include mutual savings and loan association holding companies organized pursuant to Section 408 of the National

Housing Act, 12 U.S.C. sec. 1730a(s), as amended.

SECTION 2. A NEW SECTION OF KRS CHAPTER 289 IS CREATED TO READ AS FOLLOWS:

(1) Any individual, or any Kentucky savings and loan association holding company, may acquire control of one (1) or more savings and loan associations or savings and loan association holding companies wherever located, except that no individual who on the effective date of this Act controls a savings and loan association or savings and loan association holding company wherever located, and no savings and loan association holding company wherever located, shall acquire, directly or indirectly, control of a Kentucky savings and loan association if the Kentucky savings and loan association was chartered after the effective date of this Act, and if, at the time of the acquisition, the Kentucky savings and loan association has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of one (1) savings and loan association holding company for the purpose of acquiring control of a savings and loan association even if the savings and loan association was chartered after the effective date of this Act and has been in existence less than five (5) years at the time of the acquisition.

(2) No individual or savings and loan association holding company wherever located shall acquire control of any savings and loan association or savings and loan association holding company if, upon the acquisition, the individual or savings and loan association holding company would control Kentucky savings and loan associations holding more than fifteen percent (15%) of the total deposits in all Kentucky savings and loan associations as reported in the most recent year-end reports made by Kentucky savings and loan associations to their respective supervisory authorities which are available at the time of the acquisition.

(3) (a) During the period expiring five (5) years after the effective date of this Act, no individual or corporation wherever located shall, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a savings and loan association or savings and loan association holding company if as a result thereof such individual or corporation would acquire control of more than three (3) Kentucky savings and loan associations during any twelve (12) month period;

(b) However, a savings and loan association holding company wherever located, may acquire control of a savings and loan association holding company which has its principal place of business in this state and which controls more than three (3) Kentucky savings and loan associations under conditions approved by the commissioner which would require the following:

1. That an acquisition made under this subsection shall be limited to only one (1) acquisition;

2. That the Kentucky savings and loan associations acquired in excess of the three (3) Kentucky savings and loan association per year limitation included in this acquisition shall be counted against future acquisitions during the remaining five (5) year period provided in this subsection; and

3. That the total Kentucky savings and loan association acquisitions by a savings and loan association holding company shall not exceed in the aggregate five (5) Kentucky savings and loan associations during any five (5) year period.

(4) The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after the effective date of this Act, shall not apply to the acquisition of a Kentucky savings and loan association if, in his discretion, the commissioner, if the Kentucky savings and loan association is organized under the laws of this state, or the federal home loan bank board, if the Kentucky savings and loan association is federally chartered, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of a Kentucky savings and loan association or savings and loan holding company having its principal place of business in this state which is closed or is in danger of closing.

(5) Any savings and loan association holding company having its principal place of business in any state may acquire control of any Kentucky savings and loan association or of any savings and loan association holding company having its principal place of business in this state, if the state wherein the savings and loan association holding company has its principal place of business shall authorize the acquisition of control of a savings and loan association or savings and loan association holding company in that state by a savings and loan association holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section;

(6) The provisions of this section shall not be construed to prohibit or restrict the merger, consolidation or other acquisition of Kentucky savings and loan associations or of savings and loan association holding companies having their principal places of business in this state and the operation by the merged or consolidated corporation of the Kentucky savings and loan associations, nor to prohibit the sale of any savings and loan association or savings and loan association holding company to, and the purchase thereof by, any Kentucky savings and loan association or any savings and loan association holding company with it's principal place of business in this state or the operation of the savings and loan association as a branch.

SECTION 3. A NEW SECTION OF KRS CHAPTER 289 IS CREATED TO READ AS FOLLOWS:

(1) Any savings and loan association holding company which proposes to acquire control of a Kentucky savings and loan association, or of a savings and loan association holding company which controls a Kentucky savings and loan association, shall concurrently file with the commissioner copies of the application filed with the applicable federal supervisory authority. The commissioner shall approve such acquisition within ninety (90) days of acceptance of a complete application if he finds that:

(a) The terms of the acquisition are in accordance with the laws of this state;

(b) The financial condition, or the competence, experience and integrity of the acquiring company or its principals are such as will not jeopardize the financial stability of the acquired savings and loan association or savings and loan association holding company;

(c) The public convenience and advantage will be served by the acquisition; and

(d) No federal regulatory authority whose approval is required has disapproved the transaction because it would result in a monopoly or substantially lessen competition, or has otherwise disapproved the transaction.

(2) A non-refundable fee shall accompany each application and shall be set by the commissioner in accordance with the fee-setting principles set out in KRS 287.480.

(3) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to examine an out-of-state savings and loan association that is controlled by a savings and loan association holding company having its principal place of business in this state, or accept reports of examinations of such out-of-state regulatory authorities in lieu of conducting examinations.

(4) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to exchange confidential information and reports of examination relating to interstate acquisitions of savings and loan associations and savings and loan association holding companies.

(5) The cost of an examination shall be assessed against and paid by the savings and loan association or savings and loan association holding company examined. The assessment for the examination shall be calculated in the same manner as that used for savings and loan association examinations.

HB 509, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.12-110 is amended to read as follows:

No insurer, agent, surplus lines broker, solicitor, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person on his behalf in any manner whatsoever:

(1) Any employment.

(2) Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto.

(3) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any profits or special returns or special dividends.

(4) Any prizes, goods, wares, merchandise, or property of an aggregate value in excess of *ten dollars ($10)* [~~one ($1.00)~~].

SB 112, AN ACT relating to investments by insurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.7-070 is amended to read as follows:

(1) An insurer may invest in the obligations (and/or stock where stated) issued, assumed or guaranteed by the following agencies of the government of the United States, or in which said government is a participant, whether or not such obligations are guaranteed by such government:

(a) Farm Loan Bank.

(b) Commodity Credit Corporation.

(c) Federal Intermediate Credit Banks.

(d) Federal Land Banks.

(e) Central Bank for Cooperatives.

(f) Federal Home Loan Banks, and stock thereof.

(g) Federal National Mortgage Association, and stock thereof when acquired in connection with sale of mortgage loans to such association.

(h) International Bank for Reconstruction and Development.

(i) Inter-American Development Bank.

(j) Asian Development Bank.

(k) *African Development Bank.*

(l) Any other similar agency of, or participated in by, the government of the United States and of similar financial quality.

(2) An insurer, either life or other than life, may not invest or have invested under this section and under KRS 304.7-060, at any time, more than 60 per cent of its assets. This limitation shall not apply to obligations issued, assumed or guaranteed by the United States.

The Committee on Education reported **HB 37** with Committee Amendments attached thereto, **HB 282**, **HB 418** with Committee Amendments attached thereto, **HB 507** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 37, AN ACT relating to textbooks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The superintendent of public instruction shall arrange the elementary and secondary school subjects included in the state courses of study as prescribed by the state board of education into six (6) adoption groups[~~, except subjects with rapidly changing or highly technical content may be excluded from the grouping process. The six (6) adoption groups shall be arranged as nearly equal in number and purchase cost as possible~~].

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one group being up for adoption each year[~~, except when an adoption has been delayed, as set forth in subsection (3) of this section. The superintendent of public instruction may call for contracts for less than six (6) years or negotiate extensions of existing contracts for individual subjects to arrange proper subject groupings and adoption group size~~]. *The six (6) adoption groups shall be arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.*

[~~(3) The superintendent of public instruction may delay a scheduled adoption and negotiate appropriate extensions of existing contracts for textbooks with relevant content or when necessary because of insufficient funding.~~]

Section 2. KRS 156.405 is amended to read as follows:

(1) *The purpose of the state textbook commission is to provide a list of current and high quality textbooks to local school districts, which complement the educational program in Kentucky schools.*

(2) The state textbook commission shall consist of the superintendent of public instruction and ten (10) appointive members. The ten (10) members shall be appointed by the state board of education upon the recommendation of the superintendent of public instruction for terms of four (4) years with two appointments each year, except that every fourth year there shall be four (4) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the state textbook commission shall be filled in like manner for the remainder of the unexpired terms. *The state textbook commission shall receive assistance in the textbook selection process from professionals who will serve on a contractual basis and be referred to in this chapter as the "textbook reviewers".*

(3) The state textbook commission shall:

(a) Select and direct the activities of the textbook reviewers who develop selection criteria and review textbooks and programs;

(b) Develop selection criteria and evaluation forms with the help of the textbook reviewers to be used in the state level selection process;

(c) Approve the evaluative criteria and forms used by the commission and textbook reviewers;

(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a list of high quality books;

(e) Select, approve and publish a list of high quality textbooks.

(4) The textbook reviewers shall be comprised of nine (9) individuals for each subject area being considered for adoption. The textbook reviewers shall be approved by the state textbook commission based on the recommendation of the superintendent of public instruction.

(5) The textbook reviewers shall:

(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks;

(b) Review textbooks and programs to determine those of high quality using evaluative criteria and forms approved by the commission;

(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,

(d) Attend meetings and training sessions as requested by the commission and the department of education.

(6)[~~(2)~~] Eight of the appointive members of the state textbook commission shall have had not less than five (5) years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. Two (2) members shall be lay citizens. In *recommending* [~~selecting~~] the members of the state textbook commission the superintendent of public instruction shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(7) Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels K-12, with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks.

(8)[~~(3)~~] Members of the state textbook commission shall *receive fifty ($50) dollars per day and* [~~serve without remuneration except~~] reimbursement for their actual expenses while attending commission meetings. *Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the superintendent of public instruction. Textbook reviewers shall be hired through a personal service contract and remuneration shall not exceed a maximum of seven-hundred and fifty ($750) dollars annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer or commission meetings.*

(9)[~~(4)~~] The meetings of the state textbook commission shall be open to the public.

(10)[~~(5)~~] Not later than *May 1* [~~July 15~~] each year the superintendent of public instruction shall call the state textbook commission into session[~~, except when an adoption has been delayed as set forth in KRS 156.400(3)~~]. The members of the state textbook commission shall elect one (1) of its members as chairman and shall adopt rules and regulations for the procedure of the commission. The superintendent of public instruction shall be the secretary of the commission.

Section 3. KRS 156.410 is amended to read as follows:

(1) The superintendent of public instruction shall prepare minimum manufacturing standards, *delineate content* [~~and~~] specifications, *in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12,* construct score cards, and formulate other criteria for use in the selection and adoption of textbooks in Kentucky.

(2) It shall be the duty of the superintendent of public instruction to prepare all necessary forms for use in the selection and adoption of textbooks, such as advertising for textbook bids, forms for bids, bonds and contracts, and other forms.

(3) The state board of education, upon the recommendation of the superintendent of public instruction, shall have authority to prescribe (a) rules and regulations pertaining to all textbook samples for use on the state and local levels; and (b) shall have authority to prescribe rules and regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The superintendent of public instruction, on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the same. The publishers, on or before July 15, of any adoption year, shall file with the superintendent of public instruction textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The superintendent of public instruction shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks for consideration by the state textbook commission indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of non-compliance.

Section 4. KRS 156.435 is amended to read as follows:

(1) The state textbook commission shall, not later than September 20 of any year in which an adoption is to be made, select, approve, and publish a list of [~~ten (10)~~] books or programs in each subject and grade, taking into account the needs of the various types of *students, indicating the student functioning level for which the textbook or program is appropriate* [~~school organizations~~]. [~~The commission shall not list more than one (1) book or program for the same subject and grade from the same person, firm, or corporation.~~]

(2) The state textbook commission shall have the authority to reject any book which:

(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, Provided the publisher of such a book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list.

(b) Is in non-compliance with standards and specifications set forth in KRS 156.410; or

(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.

(3) The state textbook commission shall have the authority to add books to the state list [~~when the number of books on the list is less than ten (10) per subject and grade or~~] when the list does not contain books for subjects added to the state courses of study.

(4) The superintendent of public instruction shall make and execute contracts for the selected books with the publishers on or before January 1 following the approval of the books selected by the commission. Except as described heretofore in KRS 156.400, all contracts shall run for six (6) years.

(5) The state textbook commission, on or before May 1, shall designate books or programs on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15.

(6) The superintendent of public instruction shall prepare a multiple list of the selected books or programs and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

SECTION 5. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of public instruction shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling nine (9) positions in each subject area for textbook reviewers;

(2) Solicitation shall be statewide and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed;

(3) The textbook commission, at its first yearly meeting, shall select textbook reviewers based on a list of qualified applicants prepared by the superintendent of public instruction and giving consideration to his recommendations as specified in KRS 156.405;

(4) The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.

(5) The department of education's curriculum and instruction specialists shall serve as staff to the commission and reviewers. The staff shall:

(a) Orient and train the commission and reviewers regarding departmental policy and selection procedures;

(b) Make available existing standards and criteria for textbook selection; and

(c) Provide supplies and sample textbooks for the review process.

(6) The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

(a) Subject content;

(b) Audience;

(c) Format;

(d) Readability; and

(c) Ancillary materials.

On or before July 15, the textbook commission shall develop general criteria, review and approve subject specific criteria and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.

(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and programs. The committee shall submit evaluation forms rating each textbook or program reviewed in each of the five (5) areas, set forth in subsection (6) of this section, with comments related to strengths and weaknesses in each area.

(8) The textbook commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, select books for the state multiple list of textbooks. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the department of education for the cycle length of the books. For those textbooks placed on the state multiple list of textbooks, summary results of the evaluations shall be provided to the local school districts.

The Committee Amendment No. 1 to **HB 37** is as follows:

Amend printed copy of **HB 37** on page 2, line 12, after the word "*schools*" and before the "." by inserting the words: "*and to provide for public participation in the adoption process*"

and on line 26, after the word "*professionals*" insert "*and lay citizens*".

and on page 3, line 17, delete "*nine (9)*" and insert in lieu thereof, "*twelve (12)*".

and on page 5, line 14, after the "." insert "*Three (3) reviewers shall be parents of children currently enrolled in public schools in Kentucky.*"

and on page 10, line 2, delete "*nine (9)*" and insert in lieu thereof, "*twelve (12)*" and,

line 6, after "*reviewed*" insert "*or are parents of children currently enrolled in public schools in Kentucky*".

The Committee Amendment No. 2 to **HB 37** is as follows:

Amend printed copy of **HB 37** on page 3, line 17, delete "*each subject*" and insert "*the*" in lieu thereof.

and on page 3, line 17, after the word "*area*" insert "*or areas*".

HB 282, AN ACT relating to the legislative education planning commission and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) The legislative education planning commission hereinafter known as the commission is hereby created to serve as an advisory group to the general assembly. The purpose of the commission is to consider the current and future educational needs of the state and its citizenry; to consider the recommendations of all state agencies concerned with education; to consider the recommendations of education interest groups; to use all available methods it deems necessary to develop a long range plan for providing a quality education system in the state; and to make recommendations to the general assembly for implementation of the plan.

(2) (a) The commission shall consist of forty-two (42) members. The legislative research commission shall appoint the following ex officio members, or their designees, who shall serve on the commission during their term of office:

1. Superintendent of public instruction;

2. Chairman, state board of education;

3. Chairman, council on higher education;

4. Chairman, Kentucky higher education assistance authority;

5. Chairman, governor's commission on literacy;

6. Chairman, advisory council on services for the blind and visually impaired;

7. Chairman, commission on the deaf and hearing impaired;

8. Chairman, governor's council on vocational education;

9. Chairman, state board for proprietary education;

10. Chairman, school facilities construction commission;

11. Chairman, board of trustees of the teachers' retirement system of the state of Kentucky;

12. Chairman, council on teacher education and certification;

13. Chairman, Kentucky authority for educational television;

14. Chairman, advisory conference of presidents;

15. Chairman, board of directors of the bluegrass state skills corporation;

16. Secretary, education and humanities cabinet;

17. Secretary, cabinet for human resources;

18. Secretary, commerce cabinet;

19. Special assistant for early childhood education and development;

20. Chancellor, community college system; and the

21. Student member, council on higher education.

(b) The legislative research commission shall request three (3) nominees from which to select one (1) member to represent each of the following groups and organizations:

1. Congress of senate and faculty leadership;

2. Council of independent Kentucky colleges and universities;

3. Kentucky American federation of labor-congress of industrial organizations;

4. Kentucky association of school administrators;

5. Kentucky association for gifted education;

6. Kentucky chamber of commerce;

7. Kentucky chapter of the American association of university professors;

8. Kentucky coalition for the handicapped;

9. Kentucky congress of parents and teachers;

10. Kentucky education association;

11. Kentucky federation of teachers;

12. Kentucky retired teachers' association;

13. Kentucky school boards association;

14. Kentucky vocational education;

15. Kentucky youth advocates;

16. League of women voters; and the

17. Prichard committee for academic excellence.

Each member shall serve a four (4) year term except the initial appointments shall be as follows: four (4) members shall serve a one (1) year term; four (4) members shall serve a two (2) year term; four (4) members shall serve a three (3) year term; and five (5) members shall serve a four (4) year term.

(c) The legislative research commission shall also appoint the senate education committee chairman, the house education committee chairman and the co-chairmen of the budget review subcommittee on education to serve as ex officio members of the commission.

(4) The commission may meet as often as necessary, but shall meet at least quarterly. At the first regular meeting of the committee each fiscal year, the membership shall select a chairman.

(5) The members of the committee may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commission shall employ a full-time assistant director and other required staff and may employ consultants as necessary to carry out its duties. The commission may solicit private funds to subsidize its work.

(7) The commission shall submit a report and recommendations to the general assembly in 1990 and shall prepare revisions and current recommendations for each subsequent regular session of the general assembly.

Section 2. To carry out the purposes of this Act, there is appropriated to the Legislative Research Commission out of the General Fund in the State Treasury the sum of one hundred thousand dollars ($100,000) in fiscal year 1989 and one hundred thousand dollars ($100,000) in fiscal year 1990.

HB 418. AN ACT relating to safety and security departments of colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.950 is amended to read as follows:

The governing board of each public institution of higher education *or nonpublic college or university licensed under regulations of the council on higher education as provided in KRS 164.945 to 164.947 and having at least a four (4) year curriculum leading to a baccalaureate degree* is authorized to establish a safety and security department and appoint safety and security officers and other employes for the university, college, or other institution of [~~public~~] higher education for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of said institution, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in the form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the governing board.

Section 2. KRS 164.955 is amended to read as follows:

(1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective institution employing them. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:

(a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage;

(b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, That such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.

(2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:

(a) When in hot pursuit of an actual or suspected violator of the law; or

(b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or

(c) When requested to act by the chief of police of the city or county in which the institution's property is located; or

(d) When requested to act by the sheriff of the county in which the institution's property is located; or

(e) When requested to act by the director of state police; or

(f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or

(g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or

(h) When operating under an interlocal cooperation agreement pursuant to KRS chapter 65.

(3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the *institution* [~~university~~]. Where desirable and at the discretion of the institution of higher education's police officials, the *institution's* [~~university~~] safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Safety and security departments created and operated by the governing boards of [~~public~~] institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.

(5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Kentucky state police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Section 3. KRS 164.960 is amended to read as follows:

All persons appointed as safety and security officers pursuant to KRS 164.950 to 164.980 shall, at the time of their employment, be:

(1) Not less than eighteen (18) years of age; and

(2) Comply with the requirements of KRS 61.300, other than the age requirement; and

(3) Shall possess whatever other requirements as may be set by the governing board of the institution of [~~public~~] higher education which employs them.

Section 4. KRS 164.965 is amended to read as follows:

The governing board of each institution of [~~public~~] higher education may provide for the appointment or promotion to the ranks and grades and positions of the department such officers and civilians as are considered by the board to be necessary for the efficient administration of the department. Such officers and civilians shall receive such compensation as shall be fixed and paid by the board.

Section 5. KRS 164.970 is amended to read as follows:

(1) Vehicles used for emergency purposes by the safety and security department of *an* [~~a public~~] institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security officers directly employed by the governing board of [~~public~~] institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the [~~public~~] institution of higher education so authorized in writing.

(3) Safety and security departments of [~~public~~] institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the federal communications commission, or its successor; KRS 432.570 to the contrary notwithstanding.

(4) Safety and security departments of [~~public~~] institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the justice cabinet with regard to reporting of criminal and other statistics.

Section 6. KRS 164.975 is amended to read as follows:

(1) The governing boards of [~~public~~] institutions of higher education, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective institution, including travel over such property, is each hereby confirmed in its authority to regulate the traffic and parking of motor vehicles, bicycles or other vehicles as well as the traffic of pedestrians on, over and across the streets, roads, paths and grounds of real property owned, used or occupied by such institution. Such regulations applicable to traffic and parking may include, but not be limited to, the following provisions:

(a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, bicycles and other vehicles.

(b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles which are operated or parked in violation of such regulations, and the denial of permission to operate vehicles on the property of such institution.

(c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by such institution. Provided, however, that nothing herein contained shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys or ways.

(2) Motor vehicle moving violations of regulations issued under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

Section 7. KRS 164.980 is amended to read as follows:

No person shall falsely represent himself to be a safety and security officer, agent or employe of a safety and security department of *an* [~~a public~~] institution of higher education and in such assumed character, arrest, detain, search, or question, in any manner the person or property of any person, nor shall any person without the authority of the governing board of the [~~public~~] institution of higher education wear its official uniform, insignia, badge, or identification of the department.

The Committee Amendment No. 1 to **HB 418** is as follows:

Amend printed copy of **HB 418** on page 5, line 1, insert "*(1)*" before "All";

and on page 5, line 4, insert "*(a)*" before (1) and bracket and strike through "[~~(1)~~]";

and on page 5, line 5, insert "*(b)*" before (2) and bracket and strike through "[~~(2)~~]";

and on page 5, line 7, insert "*(c)*" before (3) and bracket and strike through "[~~(3)~~]";

and on page 5, after line 9 insert the following:

"(2) Each safety and security officer employed in a safety and security department established after the effective date of this Act shall successfully complete ten (10) weeks of basic training and forty (40) hours of annual inservice training as provided by the department of training of the justice cabinet. New departments shall make regular reports of training activities pursuant to administrative regulations promulgated by the council on higher education.

(3) A nonpublic college or university shall pay the justice cabinet for the actual costs associated with the training of its safety and security officers."

The Committee Amendment No. 2 to **HB 418** is as follows:

Amend printed copy of **HB 418** on page 1, line 5, 6 and 7, delete all new language following "*164.947*".

HB 507, AN ACT relating to the principal testing and internship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.027 is amended to read as follows:

(1) [~~Effective July 1, 1986,~~] The state board of education, pursuant to KRS 161.025(4), shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The state board of education and the council on higher education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) [~~Effective July 1, 1986,~~] The state board of education shall develop or select appropriate tests for applicants seeking certification as principals, including:

(a) A generic test to assure an acceptable level of communication skills, general knowledge and professional education concepts related to but not limited to instructional leadership, management and supervisory skills; and

(b) A specialized examination on the current instructional and administrative practices in Kentucky public education.

(4) The state board of education shall establish the minimum score for successful completion of examinations and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the tests. The state board of education shall provide for confidentiality of examination scores.

(5) [~~Effective January 1, 1988, the certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. Upon successful completion of the approved preparation program and the examinations, the superintendent of public instruction shall issue to the applicant a statement of eligibility for internship valid for four (4) years. If the applicant does not participate in an internship program within the four (4) year period, the applicant must reestablish eligibility by repeating and passing the examinations in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.~~

~~(6) By July 1, 1986,~~] The council on teacher education and certification shall develop and recommend to the superintendent of public instruction and the state board of education an internship program which shall provide for the supervision, assistance and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed within a ten (10) year period prior to making application at least two (2) years of successful experience as a principal in a school situation. [~~Effective September 1, 1986~~] The state board of education, by regulation, shall establish the internship program.

(6) Effective January 1, 1988, the certification of principals shall require the successful completion of the

examinations required by subsection (3) of this section.

(7) Effective July 1, 1988, and upon successful completion of the approved preparation program and the examinations, the superintendent of public instruction shall issue to the applicant a statement of eligibility for internship valid for four (4) years. If the applicant does not participate in an internship program within the four (4) year period, the applicant must reestablish eligibility by repeating and passing the examinations in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8)[~~(7)~~] Effective July 1, 1988, all applicants for principal certification, after successfully completing the examinations, shall successfully complete the internship program described in subsection *(5)*[~~(6)~~] of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to regulations developed by the state board of education, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9)[~~(8)~~] Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the state board of education.

The Committee Amendment No. 1 to **HB 507** is as follows:

Amend printed copy of **HB 507** on page 4, after line 19, by inserting the following:

"Section 2. Whereas, school principals typically begin new positions at the beginning of the fiscal year and the internship program is designed to begin July 1, 1988, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor."

The Committee Title Amendment to **HB 507** is as follows:

Amend printed copy of **HB 507** by amending the title to read as follows:

"AN ACT relating to the principal testing and internship program and declaring an emergency thereof."

The Committee on Education reported **HB 223** and **HB 544** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 223. AN ACT relating to school districts' census.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.250 is amended to read as follows:

The director of pupil personnel of each school district, working under the direction of the superintendent of schools, shall institute and maintain a complete, accurate, permanent and continuous census of all *enrolled* children between the ages of five (5) and *twenty-one (21) enrolled in the public schools in the* [~~eighteen (18) that reside in the school~~] district. A child's age is between five (5) and *twenty-one (21)* [~~eighteen (18)~~] when the child has reached his fifth birthday and has not passed the *twenty-first* [~~eighteenth~~] birthday. The school census shall specify the name, date of birth and sex of each child; the name, nationality[~~, occupation~~] and post office address of each parent, guardian or custodian of the child; the school district in which the child resides; and the school *in* [~~to~~] which the child *is enrolled* [~~belongs~~]. The school shall be described by number and name. The census shall contain any other data required by the superintendent of public instruction. Each board of education shall furnish its director of pupil personnel with [~~such~~] assistance [~~as~~] it deems necessary for the institution and maintenance of the census.

Section 2. KRS 159.990 is amended to read as follows:

(1) Any parent, guardian or custodian who wilfully fails to comply with the requirements of KRS 159.010

to 159.170 shall be fined not more than ten dollars ($10.00) for the first offense, and not more than twenty dollars ($20.00) for each subsequent offense. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.

(2) Any principal, teacher, director of pupil personnel, assistant director of pupil personnel or other school officer who wilfully fails to comply with the provisions of KRS 159.010 to *159.250* [~~159.260~~], or of KRS 160.330 shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00). Upon conviction under this subsection a director of pupil personnel or assistant director of pupil personnel shall be removed from office and have his certificate revoked, and a principal, teacher or other school officer may have his certificate revoked.

(3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned in the county jail for not more than sixty (60) days, or both.

(4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars ($50.00) and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer he shall be removed from office, and if he is a director of pupil personnel his certificate shall be revoked.

(5) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

Section 3. The following KRS section is repealed:

159.260 Report of census to superintendent of public instruction.

HB 544, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.360 is amended to read as follows:

(1) The state board of education shall authorize grants to *selected* [~~twelve (12)~~] local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(2) Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(3) Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(4) Only those parents who have a three (3) or four (4) year old child and do not possess a high school diploma or high school equivalency certificate shall be eligible.

(5) Local education agencies shall be eligible for funds if the percentage of adults not graduating from high school exceeds *fifty* [~~sixty~~] percent *(50%)* ([~~60%~~]) in the county or district. Selection for grant awards shall be based on the educational need of the adult population and the incidence of unemployment in the county or district.

(6) Each grant proposal shall include a plan for providing the following:

(a) Identification and recruitment of eligible participants;

(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

(c) Transportation, lunch and free general education development testing for program participants;

(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; and

(e) Certification of the eligibility and enrollment of a minimum of ten (10) *with a maximum of fifteen (15)* parents with their children.

Orders of the Day

HB 479 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 479** be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See February 9, 1988 roll call on **HB 479** - Appendix A.)

HB 479 was passed and the title agreed to.

Representative Stumbo moved that the rules be suspended to act upon a Resolution.

Representative Lile moved the adoption of the following **HR 85**:

HR 85, A RESOLUTION honoring the Pleasure Ridge Park Woman's Club.

WHEREAS, the Pleasure Ridge Park Woman's Club has made many noteworthy contributions to the community it serves, including effective lobbying for Southwest Hospital and the Southwest YMCA; and

WHEREAS, this club has also helped establish a Cancer Closet and an area bloodmobile; and

WHEREAS, it has sponsored the Dixie Junior Miss Pageant; and

WHEREAS, it has contributed to school libraries and the Crusade for Children; and

WHEREAS, it has promoted vision screening of pre-school children in the area it serves;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes this outstanding organization for its many fine accomplishments.

Section 2. That a copy of this resolution be sent to the Pleasure Ridge Park Woman's Club.

HR 85 was adopted by voice vote.

HB 339, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HB 339**. Agreed.

Representative Blevins moved that **HB 339**, as amended, be passed.

On the roll call the vote was: Yeas 37, Nays 50. (See February 9, 1988 roll call on **HB 339** - Appendix A.)

HB 339, as amended, was defeated.

HB 407, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved the adoption of Committee Substitute to **HB 407**. Agreed.

Representative Maggard moved that **HB 407**, by way of Committee Substitute,. be passed.

On the roll call the vote was: Yeas 49, Nays 38. (See February 9, 1988 roll call on **HB 407** - Appendix A.)

HB 407, by way of Committee Substitute, was passed and the title agreed to.

Representative Maggard moved that the vote by which **HB 407**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 398** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:42 p.m.)

HB 398 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 83, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of Floor Amendment No. 1 to **HB 83**. Rejected.

Representative Maggard moved that **HB 83** be passed.

On the roll call the vote was: Yeas 39, Nays 57. (See February 9, 1988 roll call on **HB 83** - Appendix A.)

HB 83 was defeated.

Representative Farrow moved that the vote by which **HB 83** was defeated be reconsidered and said motion be placed on the table. Agreed.

SB 10, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Floor Amendment No. 1 to **SB 10**.

On the roll call the vote was yeas 27-Barrows, Callahan, Casebier, P. Clark, Donnermeyer, Freibert, Geveden, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, A. Jones, T. Jones, Kerr, Mack, Mason, McBee, Meyer, Moberly, Noe, O'Brien, Reinhardt, Riner, Scorsone, Seum, Will. Nays 60-Adams, Adkins, Allen, Altman, Ark, Ballard, Blandford, Blevins, Bronger, J. Brown, Bruce, Castleman, L. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Farrow, Ford, Gedling, Gray, Gregory, Guenthner, Hancock, Hourigan, Jackson, Johnson, Keith, Layman, Lear, Lefevers, LeMaster, Little, Long, Lyne, Maggard, McElroy, Napier, Nett, Noland, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Robinson, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker.

Floor Amendment No. 1 to **SB 10** was rejected.

Representative B. Richardson moved that **SB 10** be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See February 9, 1988 roll call on **SB 10** - Appendix A.)

SB 10 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 10** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 530** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introductions of Bills and Resolutions

HB 634, by Representative Lundergan: AN ACT relating to the organization and structure of the Kentucky higher education student loan corporation and declaring an emergency.

HB 635, by Representative B. Jones: AN ACT relating to water districts.

HB 636, by Representatives Morris, Moberly and Gregory: AN ACT relating to activities in competition with private enterprise.

HB 637, by Representatives Long, Hancock, T. Jones, Barrows and Farrow: AN ACT relating to state personnel.

HB 638, by Representatives Moberly, Scorsone and Napier: AN ACT relating to the disposal of chemical agents.

HB 639, by Representatives L. Clark, Yates and Bronger: AN ACT relating to waterworks in counties containing cities of the first class.

HB 640, by Representative L. Clark: AN ACT relating to labor.

HB 641, by Representative McElroy: AN ACT relating to state printing.

HB 642, by Representatives Donnermeyer, Bronger, Blevins, Priddy, Rapier, Hancock, Stumbo, Yates, Burch, Lear, Meyer, LeMaster and Heleringer: AN ACT relating to alcoholic beverage control.

HB 643, by Representatives T. Jones and Noe: AN ACT relating to state personnel.

HR 88, by Representative Castleman: A RESOLUTION honoring Brother Joe Adams.

Report of Committees

The Committee on Transportation reported **HB 437**, with Committee Substitute attached thereto, and **HB 533** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 437, AN ACT relating to the transfer of ownership of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.215 is amended to read as follows:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, *except if the space provided therefor on the owner's certificate of title fails to meet the requirements for lawful conveyance of title or if the space provided therefor on the owner's certificate of title fails to meet the requirements for the owner to execute an odometer disclosure statement as required by federal law in effect at the time transferor executes on assignment and warranty of title. Pursuant to the exceptions provided by this subsection and in other cases where applicable, the transferor shall execute an assignment and warranty of title to the transferee by executing the transferor portions of the vehicle transaction record provided by this chapter. The transferor shall* [~~and execute the applicable portions of the vehicle transaction record provided for by this chapter, and~~] cause the vehicle transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, *within fifteen (15) days* [~~promptly~~] after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of the vehicle transaction record. *If a vehicle transaction record is required by subsection (1) of this section, the transferee shall execute the applicable portions of the vehicle transaction record* provided to him by his transferor. Any unexpired registration shall remain valid upon transfer of said vehicle to the transferee.

(3) The vehicle transaction record with its supporting documentation attached shall promptly be submitted to the county clerk as provided in KRS 186A.115, together with the required fees.

(4) This section shall not apply to a [~~motor~~] vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a [~~motor~~] vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

Section 2. KRS 186A.220 is amended to read as follows:

(1) Except as otherwise provided in this chapter, when any motor vehicle dealer licensed in this state buys or accepts such a vehicle in trade, which has been previously registered or titled for use in this [~~or another~~] state, and which he holds for resale, he shall not be required to obtain a certificate of title for it, but shall, within fifteen (15) days after acquiring such vehicle, notify the county clerk of the assignment of the motor vehicle to his dealership and pay the required transferor fee.

(2) Upon purchasing such a vehicle or accepting it in trade, the dealer shall obtain from his transferor, [~~a~~] properly executed, *all documents required by KRS 186A.215* [~~vehicle transaction record~~], to include the odometer disclosure statement thereon, together with a properly assigned certificate of title.

(3) The dealer shall execute his application for assignment upon documents designated by the department of vehicle regulation, to the county clerk of the county in which he maintains his principal place of business. Such clerk shall enter the assignment upon the automated system.

(4) The dealer shall retain the properly assigned certificate of title received from his transferor, and

may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The department of vehicle regulation may, if it deems it warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(5) When he assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, and a properly executed vehicle transaction record, to such purchaser, who shall make application for registration and a certificate of title thereon.

(6) The department of vehicle regulation shall assure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

The Committee Substitute to **HB 437** is as follows:

HB 437, AN ACT relating to the transfer of ownership of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.215 is amended to read as follows:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, *except if the space provided therefor on the owner's certificate of title fails to meet the Kentucky requirements for lawful conveyance of title or if the space provided therefor on the owner's certificate of title fails to meet the requirements for the owner to execute an odometer disclosure statement as required by federal law in effect at the time transferor executes on assignment and warranty of title. Pursuant to the exceptions provided by this subsection and in other cases where applicable, the transferor shall execute an assignment and warranty of title to the transferee by executing the transferor portions of the vehicle transaction record provided by this chapter. The transferor shall* [~~and execute the applicable portions of the vehicle transaction record provided for by this chapter, and~~] cause the vehicle transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of *a* [~~the~~] vehicle transaction record. *If a vehicle transaction record is required by subsection (1) of this section, the transferee shall execute the applicable portions of the vehicle transaction record* provided to him by his transferor. Any unexpired registration shall remain valid upon transfer of said vehicle to the transferee.

(3) The vehicle transaction record with its supporting documentation attached shall promptly be submitted to the county clerk as provided in KRS 186A.115, together with the required fees.

(4) This section shall not apply to a [~~motor~~] vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a [~~motor~~] vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

Section 2. KRS 186A.220 is amended to read as follows:

(1) Except as otherwise provided in this chapter, when any motor vehicle dealer licensed in this state buys or accepts such a vehicle in trade, which has been previously registered or titled for use in this or another state, and which he holds for resale, he shall not be required to obtain a certificate of title for it, but shall, within fifteen (15) days after acquiring such vehicle, notify the county clerk of the assignment of the motor vehicle to his dealership and pay the required transferor fee.

(2) Upon purchasing such a vehicle or accepting it in trade, the dealer shall obtain from his transferor,

[~~a~~] properly executed, *all documents required by KRS 186A.215* [~~vehicle transaction record~~], to include the odometer disclosure statement thereon, together with a properly assigned certificate of title.

(3) The dealer shall execute his application for assignment upon documents designated by the department of vehicle regulation, to the county clerk of the county in which he maintains his principal place of business. Such clerk shall enter the assignment upon the automated system.

(4) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The department of vehicle regulation may, if it deems it warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(5) When he assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, and a properly executed vehicle transaction record, to such purchaser, who shall make application for registration and a certificate of title thereon.

(6) The department of vehicle regulation shall assure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

HB 533, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The transportation cabinet shall, upon receipt of the written recommendation of the court in which any person has been convicted of a traffic violation under KRS Chapter 186, 189 or 189A, causing the suspension or revocation of his operator's license, issue an occupational operator's license to such person.

(2) No court shall recommend an occupational license unless the following evidence is established by the applicant:

(a) The applicant has demonstrated a need to operate a motor vehicle as an essential part of his livelihood, family obligations or both;

(b) The refusal to issue an occupational license would result in undue hardship to the person or his family;

(c) The place of employment and scheduled work hours of the applicant;

(d) The county or counties where the person needs to operate a motor vehicle; and

(e) The person is currently enrolled or has successfully completed rehabilitative training or aid for those violations which caused the suspension or revocation.

(3) The court shall inform the person or organization providing the training or aid that the holder of an occupational operator's license is required to receive training. If the holder of the license does not complete or fails to attend the training program, the person or organization shall immediately inform the cabinet, and the occupational operator's license shall be revoked.

(4) An occupational operator's license shall be limited in use to the operation of a motor vehicle for the purposes of commuting to work and one (1) hour before and after the established working hours and to receive the training or aid set forth in subsection (2)(e) of this section and one (1) hour before and after the scheduled rehabilitative training classes.

(5) An occupational operator's license shall expire one (1) year from the date of issue and shall not be renewable, except that if the suspension or revocation period exceeds one (1) year, the person may reapply to the cabinet upon expiration of the license.

(6) A person shall be eligible for only one (1) occupational operator's license during his lifetime, except that it may be renewed on a continuing basis for the term of the revocation or suspension, if such is for a period exceeding one (1) year.

(7) Applicants for an occupational driver's license shall pay to the circuit clerk upon its issuance or renewal a fee of two hundred fifty dollars ($250).

(8) Any holder of an occupational operator's license who violates the restrictions or conditions of his license or is convicted of an offense which would cause suspension or revocation of a regular operator's license or convicted of an offense which would result in the assessment of three (3) or more points against his driving record shall immediately have his occupational operator's license revoked and shall be fined five hundred dollars ($500).

The Committee on Transportation reported **HB 81** with Committee Amendment attached thereto, **HB 434** with Committee Substitute attached thereto, and **HB 455** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 81, AN ACT relating to traffic safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.231 is amended to read as follows:

(1) The secretary of transportation may restrict or regulate traffic and may install and maintain traffic control devices upon state-maintained highways in such manner as is reasonably necessary to promote the safety and convenience of the traveling public.

(2) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto unless otherwise directed by traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

(3) The secretary of transportation may restrict or regulate motor carriers registered at forty-four thousand (44,000) pounds or more upon state maintained highways in such a manner as is reasonably necessary to promote the safety of the traveling public.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of

KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not

less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) *Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall upon first offense be fined five hundred dollars ($500), and upon subsequent convictions shall be fined not less than five hundred dollars ($500) nor more than seven hundred and fifty dollars ($750) or imprisoned for thirty (30) days or both.*

(18) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

The Committee Amendment No. 1 to **HB 81** is as follows:

Amend printed copy of **HB 81** on page 1, line 2, by placing a bracket in front of the word "may" and on line 3, by placing a closing bracket after the first "and" and striking through the same;

on page 1, line 13, after the word "*regulate*" by inserting the word "*traffic*" and by deleting the following language: "*motor carriers registered at forty-four thousand (44,000) pounds or more*";

on page 6, line 12, after the word "fined" by inserting the words "*one hundred dollars ($100)*" and by deleting the words "*five hundred dollars ($500)*";

on page 6, line 13 and 14, after the first "than" by inserting the words *"one hundred dollars ($100)"* and by deleting the words *"five hundred dollars ($500)"*; and

on page 6, lines 14 and 15, after the first "than" by inserting the words *"five hundred dollars ($500)"* and deleting the words *"seven hundred and fifty dollars ($750)"*.

on page 8, after line 16, by inserting the following: "Section 3. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231 *(for first offense only)*, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804."

HB 434, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the transportation cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) Any motor vehicle required to be registered and titled in Kentucky which is currently registered and titled in another state may be equipped with a temporary tag issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky.

Section 2. KRS 186A.105 is amended to read as follows:

(1) Motor vehicle dealers and their agents *and county clerks,* before equipping a vehicle with a temporary tag, shall print or stamp in waterproof ink, legibly, in the spaces provided on such tag:

(a) The month, day and year the vehicle was delivered to the purchaser;

(b) The month, day and year of expiration of the tag which shall be no more than fifteen (15) days following the date of delivery of the vehicle to the purchaser;

(c) The purchaser's name;

(d) The year model, make and vehicle identification number of the vehicle sold; [~~and~~]

(e) The dealer's name, city of principal place of business and the telephone number including telephone area code*; and*

(f) The clerk's name, county and telephone number, including area code.

(2) The dealer's employe who executes the temporary tag shall place his signature in the space provided. A dealer who issues, or whose agents issue, temporary tags shall keep a log of each temporary tag obtained, and each such tag issued, showing all information entered by the dealer or dealer's agent on forms supplied by the cabinet, and shall make such log available for inspection by any law enforcement officer upon request. Such log shall be retained by the dealer for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

The Committee Substitute to **HB 434** is as follows:

HB 434, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the transportation cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky which is currently registered and titled in another state may be equipped with a temporary tag issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The transportation cabinet may establish regulations governing this section.

Section 2. KRS 186A.105 is amended to read as follows:

(1) Motor vehicle dealers and their agents *and county clerks*, before equipping a vehicle with a temporary tag, shall print or stamp in waterproof ink, legibly, in the spaces provided on such tag:

(a) The month, day and year the vehicle was delivered to the purchaser;

(b) The month, day and year of expiration of the tag which shall be no more than fifteen (15) days following the date of delivery of the vehicle to the purchaser;

(c) The purchaser's *or owner's* name;

(d) The year model, make and vehicle identification number of the vehicle sold; and

(e) *Either* the dealer's name, city of principal place of business and the telephone number including telephone area code *or the clerk's name, county and telephone number, including area code.*

(2) The dealer's employe who executes the temporary tag shall place his signature in the space provided. A dealer who issues, or whose agents issue, temporary tags shall keep a log of each temporary tag obtained, and each such tag issued, showing all information entered by the dealer or dealer's agent on forms supplied by the cabinet, and shall make such log available for inspection by any law enforcement officer upon request. Such log shall be retained by the dealer for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

(3) The county clerk who executes the temporary tag shall place his signature in the space provided. A county clerk who issues temporary tags shall keep a log of each temporary tag obtained, and each tag issued, showing all information entered by the county clerk on forms supplied by the cabinet, and shall make the log available for inspection by any law enforcement officer upon request. The log shall be retained by the county clerk for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

HB 455, AN ACT relating to tolls.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.520 is amended to read as follows:

(1) The authority, while having the right to control tolls under this chapter or any lease, and the department, while having such right under this chapter or any such lease, are hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof. *The authority or the department shall not charge or collect tolls from state police vehicles, local police and fire department officials and emergency vehicles operated by ambulance services while such vehicles are being operated in an official capacity, in both emergency and non-emergency situations, on a turnpike project. To receive the exemption contained in this subsection, an ambulance service shall be licensed by the cabinet for human resources.*

(2) The authority, with the approval of the department, is hereby authorized to contract with any person, partnership, association or corporation desiring the use of any part of a project, including the right of way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, service stations, garages, stores, hotels, motels, and restaurants, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. A sufficient number of service stations shall be authorized to be established in each service area along any such turnpike to permit reasonable competition by private business in the public interest.

(3) During any period when tolls are under the control of the authority, such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued under the provisions of this chapter as to provide funds sufficient, with any other available funds, to pay (a) the cost of maintaining, repairing and operating such turnpike project or projects, unless such cost or any part thereof is being paid by the department as authorized in this chapter, and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other department, commission, board, bureau or agency of the Commonwealth. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the proceedings authorizing the issuance of such bonds or the trust indenture securing the same, shall be set aside in a sinking fund or funds which are hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge

is made; the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the authority and the department. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the proceedings authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such proceedings or in such trust indenture, any such sinking fund shall be a fund for all bonds provided to be payable therefrom without distinction or priority of one (1) over another.

(4) Notwithstanding any of the foregoing provisions of this section, the department may, by separate proceedings ancillary to the proceedings of the authority authorizing the issuance of revenue bonds or revenue refunding bonds under the provisions of this chapter, covenant to pay all or any part of the cost of maintaining, repairing and operating any project constructed under the provisions of this chapter, and the department may, in such proceedings, covenant to make up all or any part of any deficiency in the fund or funds pledged to and charged with the payment of the principal of and the interest on such bonds from any funds or tax revenues available for general purposes of the department and not required by law to be devoted to some other purpose, and, inasmuch as such project will have been constructed by agreement with the department for the use and benefit of the Commonwealth and will eventually become the property of the Commonwealth, any such covenant shall have the force of contract between the Commonwealth and the holders of such revenue bonds or revenue refunding bonds.

(5) Notwithstanding any of the foregoing provisions of this section, the authority may, in the proceedings authorizing the issuance of revenue bonds or revenue refunding bonds for any turnpike project or projects under the provisions of this chapter or in the trust agreement securing such bonds, pledge to the payment of such bonds all motor fuel taxes and surtaxes collected by the Commonwealth on gasoline and other motor fuels consumed on such project or projects (except the two-sevenths (2/7) of said motor fuel taxes provided by KRS 138.220 to be set aside for the construction, reconstruction and maintenance of rural and secondary roads) and paid over to the authority by the department as revenues of such project or projects, and covenant to deposit such motor fuel taxes from time to time in the sinking fund or funds pledged to the payment of such bonds. In determining the amount of motor fuel consumed on any turnpike project the department shall divide the total miles traveled on such project by passenger automobiles, single unit trucks, and semitrailer trucks and buses as determined by the department by the average number of miles per gallon of motor fuel consumed by each of those classes of motor vehicle on the following basis:

Passenger automobiles	15 miles per gallon
Single unit trucks	10 miles per gallon
Semitrailer trucks and buses	5 miles per gallon

The Committee Amendment No. 1 to **HB 455** is as follows:

Amend printed copy of **HB 455** on page 1, line 10, by deleting the word "*officials*" and inserting the following language: "*vehicles while such vehicles are being operated in an official capacity and within their jurisdiction or in the county of a toll collection facility in a county which is contiguous to said county of jurisdiction*"; and

on page 1, line 16, after the "." by inserting the following language: "*The Transportation Cabinet shall within fifteen (15) days of the effective date of this Act implement the provisions of this Act.*"

The Committee on Judiciary-Civil reported **HB 397** with Committee Amendment attached thereto, **HB 569**, **SB 8** with Committee Amendments attached thereto, **SB 71** and **SB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 397, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.090 is amended to read as follows:

(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the circuit court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. He shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

(2) It shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the circuit court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court, and he shall see that the payments are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of district court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the circuit court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of district court as reimbursement for the expenses incurred by the juvenile session of district court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. He shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(3) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable him to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody and maintenance of the children. He shall make a report to the trial judge, at a time fixed by the judge, setting forth his recommendations as to the care, custody and maintenance of the children. He may request the court to postpone the final submission of any case to give him a reasonable time in which to complete his investigation.

(4) The friend of the court shall have authority to secure the issuance by the court of any order, rule or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing his duties under subsection (3) of this section he shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses; in the case of depositions taken on interrogatories, he may file cross interrogatories. He shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when he deems it necessary for the protection of the minor children, or when he may be directed by the court to attend.

(5) The friend of the court shall not directly or indirectly represent any party to a divorce action except as he is herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, he may proceed to enforce the payment of the allowance made to the spouse also.

(6) The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for his necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the judge or judges appointing him. *The circuit court may supplement the funding of the office of friend of the court by the imposition of a service fee equaling a percentage of each payment ordered to be paid to the friend of the court in or relating to a divorce action. The amount of any service fee which may be imposed shall be established by order of the appointing authority described in subsection (1) of this section and shall not exceed five percent (5%) of each payment ordered to be made to the friend of the court. A service fee established pursuant to this subsection shall be paid by the party making the court-ordered payment to the friend of the court.*

The Committee Amendment No. 1 to **HB 397** is as follows:

Amend printed copy of **HB 397** on page 4, line 23, delete "*A*" and insert in lieu thereof "*The*"; and

On page 4, line 26, after "*court*" insert "*and the fee shall be in addition to the amount of ordered payments for care and maintenance of minor children*"

HB 569. AN ACT relating to corporation organization tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.060 is amended to read as follows:

(1) Every corporation incorporated under the laws of this state, having a capital stock divided into shares, shall pay into the state treasury, at the time of incorporation, an organization tax based upon the number of shares authorized by the articles of incorporation, at the following rates:

[~~(a) In the case of shares having a par value,~~] One cent ($.01) for each share authorized up to and including twenty thousand (20,000) shares, one-half cent ($.005) for each such share in excess of twenty thousand (20,000) shares and up to and including two hundred thousand (200,000) shares and one-fifth cent ($.002) for each such share in excess of two hundred thousand (200,000) shares;

[~~(b) In the case of shares having no par value, one-half cent ($.005) for each share authorized up to and including twenty thousand (20,000) shares, one-quarter cent ($.0025) for each such share in excess of twenty thousand (20,000) shares up to and including two hundred thousand (200,000) shares, and one-fifth cent ($.002) for each such share in excess of two hundred thousand (200,000) shares.~~]

(2) Upon the filing of an amendment to articles of incorporation changing the authorized number of shares [~~(of par value, or of no par value, or both)~~], the tax that would be due upon the number of shares authorized by the articles of incorporation as so amended, at the rates set forth in subsection (1) of this section, shall be computed, and if the tax as so computed exceeds the amount of tax computed on the basis of the number of shares authorized by the articles prior to such amendment, such excess tax shall be paid at the time the amendment is filed.

(3) [~~If it is provided in the articles of incorporation that shares having no par value may be exchanged for or converted into shares having a par value, or that shares having a par value may be exchanged for or converted into shares having no par value, the maximum number of shares of the respective types that might be issued by reason of such exchange or conversion, shall, for the purpose of computing the tax imposed by this section, be counted as authorized shares.~~

~~(4~~]) Every corporation that has not, prior to July 1, 1946, become liable for the payment of a Kentucky organization tax upon any or all of its capital stock, and that by amendment of its articles of incorporation changes its name, increases its powers, enlarges its scope, or prolongs its corporate life, shall, upon the filing of the amendment, pay the tax as provided in subsection (1) of this section upon its entire capital stock, or so much thereof as has not theretofore borne the tax.

(4)[~~(5)~~] A consolidated or merged corporation formed under the laws of this state shall not be required to pay any organization tax on the number of shares of capital stock on which the organization tax has been paid by the constituent corporations prior to the consolidation or merger, but the organization tax shall be paid on any increase of the number of shares of capital stock of the consolidated corporation over the aggregate number of shares of the constituent corporations prior to the consolidation or merger. When a foreign corporation consolidates or merges with one or more corporations of this state, the organization tax shall be paid on the number of shares of capital stock of the foreign corporation.

(5)[~~(6)~~] No corporation subject to the tax imposed by this section shall have or exercise any corporate powers until the tax has been paid, and upon payment it shall file a statement thereof with the secretary of state. No corporation required to pay a tax under any of the provisions of this section shall in any event pay a less sum therefor than ten dollars ($10.00).

SB 8. AN ACT relating to probate and related matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the district court:

(a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the district court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, decedent, or trust; and

(b) The district court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold. *Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.*

(a) In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice by certified mail, return receipt requested shall be given to all known adult next of kin of:

1. The nature and pendency of the action; and

2. Not less than thirty (30) days notice of the time, date and location of the hearing on the motion. At or before the hearing, the fiduciary or his attorney shall file an affidavit on personal knowledge showing compliance with this paragraph and attaching a copy of the notice given and the original of all receipts returned.

(b) All such persons shall have standing to present evidence and to be heard at the hearing.

(4) An aggrieved party may no later than thirty (30) days from the date of the order, institute an adversary proceeding in circuit court pursuant to KRS 24A.120(2)in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the district court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) Whenever real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in such will, proceedings may be had in the district court to determine the persons entitled to such property.

(2) (a) If an estate is in process of administration the executor, administrator or any person claiming an interest in the property may file a motion in the district court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the district court of the county in which the decedent last resided or in the event the decedent was not a Kentucky resident, in the district court of the county in which the property, or

the greater part thereof, is located.

(b) The motion shall set forth all of the facts known to movant relating to the matter including the names, ages and addresses of all persons who are or may be entitled to share in such property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value.

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time (which shall not be less than twenty (20) days from the date of service) when the motion will come on for hearing.

(3) Upon the hearing on the motion any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each.

(5) In a case where some or all of the property is real estate located in this state a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120.

(6) Any party may at any time prior to judgment institute an adversary proceeding in circuit court pursuant to KRS 24A.120(2).

(7) Any aggrieved party may no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in circuit court pursuant to KRS 24A.120(2).

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the district court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of intestate succession, if a relationship of parent and child must be established to determine succession by, through, or from a person, a person born out of wedlock is a child of the natural mother. That person is also a child of the natural father if:

(a) The natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or

(b) In determining the right of the child or its descendants to inherit from or through the father:

(i) There has been an adjudication of paternity before the death of the father; or

(ii) There has been an adjudication of paternity after the death of the father based upon clear and convincing proof;

(c) In determining the right of the father or his kindred to inherit from or through the child:

(i) There has been an adjudication of paternity before the death of the child; or

(ii) There has been an adjudication of paternity after the death of the child based on clear and convincing proof and the evidence in such adjudication shall have demonstrated that the father openly treated the child as his, and the father did not follow a consistent policy of refusing to support the child on the ground of non-paternity.

(2) The terms and conditions set out in this section shall also apply in actions brought pursuant to KRS 411.130 and 411.135.

Section 4. KRS 394.090 is amended to read as follows:

Every will shall be revoked by the marriage of the person who made the will, except:

(1) A will made in exercise of a power of appointment when the estate thereby appointed would not, in default of such appointment, pass to the heir, personal representative, or next of kin of the person who made the will;

(2) A will that expressly provides that it is intended that a subsequent marriage shall not revoke the will.

(3) A will that expressly provides for the person who later becomes the spouse of the deceased and is married to the testator on the date of death.

SECTION 5. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate shall also receive notice from the fiduciary by mail at least ten (10) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made and shall indicate assets on hand and anticipated to be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement, and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom, which assets may be liquidated for distribution of cash or for payment of debts, costs of administration or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. Evidence and vouchers need not accompany the proposal unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall upon the whole case, reject, confirm, alter or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety, without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in circuit court pursuant to KRS 24A.120(2).

Section 6. KRS 395.270 is amended to read as follows:

Two (2) [~~Five (5)~~] months must run after the date of the qualification of the first personal representative of a decedent's estate before an action shall be commenced against any executor or administrator thereof except against an executor de son tort. Any action brought in violation of this section shall be dismissed with costs, except that an alleged creditor whose claim has been denied in writing by the fiduciary may commence action immediately after receipt of such denial.

Section 7. KRS 395.620 is amended to read as follows:

(1) The district judge shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the circuit clerk. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

(2) A settlement filed in conformity with an approved proposed settlement made under Section 5 of this Act need not be set for hearing.

SECTION 8. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) All claims against a decedent's estate which arose before the death of the decedent, excluding claims of the United States, the state of Kentucky and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within six (6) months after the appointment of the personal representative, or where no personal representative has been appointed, within two (2) years after the decedent's death.

(2) Nothing in this section shall affect or prevent:

(a) To the extent of the security only, any proceeding to enforce any mortgage, pledge, lien or other security interest securing an obligation of the decedent or upon property of the estate; or

(b) To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance.

SECTION 9. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

Claims against a decedent's estate shall be presented as follows:

(1) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. If presentment shall be made by filing a written statement of the claim with the clerk of the court, the claimant shall certify as provided in the rules of civil procedure that a copy of the written statement has been given or mailed to the personal representative and his attorney. The claim shall be deemed presented on the first to occur of receipt of the written statement of claim by the personal representative, or the filing of the claim with the court. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(2) In an action pending against the decedent at the time of his death, which action survives at law, the substitution of the personal representative for the decedent, or motion therefor shall constitute the presentation of a claim. Such claim shall be deemed to have been presented from the time of substitution, or motion therefor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

Upon any claim being presented in the manner described in subsection (1) of Section 9 of this Act, the personal representative may require by written request mailed to the claimant, the affidavit of the claimant or other satisfactory evidence that such claim is justly due, that no payments have been made thereon, and that there are no offsets against same, to the knowledge of the claimant; or if any payments have been made, or any offsets exist, that their nature and amount be shown by the evidence or stated in the affidavit.

SECTION 11. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

No action shall be brought against a personal representative on a claim against decedent's estate unless the claimant shall have first presented his claim in the manner described in Section 9 of this Act. The foregoing limitation shall be in addition to that limitation on the commencement of an action against a personal representative set forth in KRS 395.270.

SECTION 12. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) No claim shall be barred by a statute of limitations which would expire during the period commencing with the decedent's death and ending six (6) months thereafter if such claim is presented within six (6) months after the decedent's death. This subsection shall not apply with respect to any statute of limitations imposed by this Act.

(2) For purposes of any statute of limitations, the proper presentment of a claim under Section 9 of this Act is equivalent to commencement of an action on the claim.

SECTION 13. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) As to claims presented in the manner described in Section 9 of this Act within the time limit prescribed in Section 8 of this Act, the personal representative may mail a notice to any claimant stating that the claim has been allowed or disallowed. If, after allowing or disallowing a claim, the personal representative changes his decision concerning the claim, he shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to commence an action on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant commences an action against the personal representative not later than sixty (60) days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail notice to a claimant of action on his claim for sixty (60) days after the time for original presentation of the claim has expired has the effect of a notice of allowance, except that upon petition of the personal representative and upon notice to the claimant, the court at any time before payment of such claim may for cause shown permit the personal representative to disallow such claim.

(2) A judgment against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(3) In the case of a disallowance of a claim which has not matured or which is contingent or unliquidated, the personal representative may consent to an extension of the sixty (60) day period imposed by subsection (1) of this section for the commencement of an action on a disallowed claim, or to avoid injustice, the court, on petition, may order an extension of the sixty (60) day period, but in no event shall the extension run beyond the applicable statute of limitations.

SECTION 14. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

If an estate is solvent the personal representative, with the consent of all successors of the decedent whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid.

SECTION 15. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) Upon the expiration of six (6) months from the date of his appointment, the personal representative may proceed to pay the claims allowed against the estate in the order of priority prescribed, after making appropriate provision for exemptions and allowances provided by law, for claims already presented which have not yet been allowed and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(2) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if:

(a) The payment was made before the expiration of the time limit stated in subsection (1) of this section and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(b) The payment was made, due to the negligence or willful fault of the personal representative, in such manner as to deprive the injured claimant of his priority.

SECTION 16. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in any judgment against the personal representative:

(1) An allowed claim not based on a contract making a provision for interest:

(a) Shall not bear interest for the period commencing with the date of the decedent's death and ending sixty (60) days after the time for original presentation of the claim has expired; and

(b) Shall bear interest at the legal rate after the period specified in subsection (1)(a) of this section provided the claimant has demanded the payment of interest in the written statement of the claim delivered or mailed to the personal representative or filed with the clerk of the court as provided in Section 9 of this Act.

(2) An allowed claim based on a contract making a provision for interest shall bear interest from the date of the decedent's death in accordance with the contract provision.

SECTION 17. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment of claims in the following order:

(a) Costs and expenses of administration; then

(b) Funeral expenses; then

(c) Debts and taxes with preference under federal law and other laws of this state; then

(d) All other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a matured claim shall not be entitled to a preference over unmatured claims.

SECTION 18. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

Payment of a secured claim shall be upon the basis of the amount allowed if the creditor surrenders his security; otherwise payment shall be upon the basis of one (1) of the following:

(1) If the creditor exhausts his security before receiving payment, unless precluded by other law, upon the amount of the claim allowed less than the fair value of the security; or

(2) If the creditor does not have the right to exhaust his security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation.

SECTION 19. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) If a claim which will mature at a future time or a contingent or unliquidated claim matures or becomes certain before the distribution of the estate, and if the claim has been allowed it shall be paid in the same manner as matured and absolute claims of the same class.

(2) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(a) If the claimant consents, he may be paid the present or agreed value of the claim, taking any uncertainty into account;

(b) Arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.

SECTION 20. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

In allowing a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

SECTION 21. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges or liens upon real or personal property in an appropriate proceeding.

SECTION 22. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether matured or unmatured, absolute or contingent, liquidated or unliquidated.

SECTION 23. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

If any assets of the estate are encumbered by mortgage, pledge, lien, or secured interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

SECTION 24. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

If a personal representative pays to a creditor an undue portion of his demand or to a distributee or devisee a part or all of his share of the estate, under a mistake as to the solvency of the estate or otherwise, he may recover from the creditor, distributee or devisee the amount of the overpayment, with interest.

SECTION 25. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) All assets of estates being administered in this state are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(2) If the estate either in this state or as a whole is insufficient to cover all exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in this state or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor so benefited shall receive payment out of local assets only upon the balance of his claim after deducting the amount of the benefit.

(3) In case the exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this state is not the state of the decedent's last domicile, the claims allowed in this state shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in this state is paid its proportion as far as possible, after taking into account all payments on claims allowed in this state from assets in other jurisdictions.

SECTION 26. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his representative capacity and identify the estate in the contract.

(2) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.

(3) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is individually liable therefor.

(4) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

SECTION 27. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

After assets of an estate have been distributed and subject to Section 28 of this Act, an undischarged claim not barred may be prosecuted in a proceeding against one (1) or more distributees. No distributee shall be liable to claimants for amounts received as exempt property or allowances, or for amounts in excess of the value of his distribution as of the time of distribution. As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made upon him by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against him loses his right of contribution against other distributees who have not been notified.

SECTION 28. A NEW SECTION OF KRS CHAPTER 396 IS CREATED TO READ AS FOLLOWS:

No cause of action on any claim not otherwise barred by the provisions of Section 8 of this Act and subsection (1) of Section 13 of this Act, or any other applicable statute of limitations, shall be brought against the personal representative or against any distributee after the expiration of two (2) years from the date of the order of discharge of the personal representative. The foregoing limitation shall not preclude an action by any claimant against the personal representative for fraud, misrepresentation or inadequate disclosure related to the settlement of the decedent's estate.

Section 29. KRS 413.180 is amended to read as follows:

(1) If a person entitled to bring any action mentioned in KRS 413.090 to 413.160 dies before the expiration of the time limited for its commencement and the cause of action survives, the action may be brought by his personal representative after the expiration of that time, if commenced within one year after the qualification of the representative.

(2) If a person dies before the time at which the right to bring any action mentioned in KRS 413.090 to 413.160 would have accrued to him if he had continued alive, and there is an interval of more than one year between his death and the qualification of his personal representative, that representative, for purposes of this chapter, shall be deemed to have qualified on the last day of the one-year period.

[~~(3) If a person against whom an action mentioned in KRS 413.090 to 413.160 may be brought dies before the expiration of the time limited for its commencement and the cause of action survives, an action may be commenced against his personal representative, devisee, or heirs, or all, after the expiration of that time, and within one year after the qualification of his personal representative. If there is no personal representative, the action may be brought against his heirs or devisees, or both, after the expiration of the time limited for bringing it, and within one year after his death.~~]

Section 30. KRS 424.340 is amended to read as follows:

The [~~circuit~~] clerk *of the probate court* shall, at least once each month, cause to be published in the newspaper meeting the requirements of KRS 424.120, a notice setting forth all fiduciary appointments made since the last publication and including at least the following information: the name and address of the decedent or ward, the name and address of the fiduciary, the date of the fiduciary's appointment, and the name and address of the attorney representing the fiduciary, if any, and the date by which claims of creditors must be *presented* [~~filed~~]. The clerk may charge each fiduciary a fee not to exceed the actual proportionate cost of said notice. Publication of this notice shall neither enlarge nor reduce the obligation of a creditor to present a timely claim, nor the liability of the fiduciary or distributee to pay the same.

Section 31. KRS 395.455 is amended to read as follows:

(1) Where the exemption of the surviving spouse alone, or together with preferred claims paid by a widow or by the widower where the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets, the court may order that administration of the estate be dispensed with and such assets be transferred to the surviving spouse or to a person designated by such surviving spouse to receive all or part of such assets. The court may so order in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

(2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate that the will be probated only.

(3) Where a surviving spouse has waived his or her right to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of probatable assets or who is legally entitled to such payment, or where there is no surviving spouse and such person has made such payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and such assets transferred to such person. The court may so order without requiring the giving of bond.

(4) For purpose of this section, the exemption of the surviving spouse is such exemption as has been created by KRS 391.030 and preferred claims are those listed in *Section 17 of this Act* [~~KRS 396.090~~] and in the order thereof.

Section 32. KRS 413.090 is amended to read as follows:

Except as provided in *Section 28 of this Act*, KRS 413.110, [~~413.200, 413.210,~~] 413.220, 413.230 and 413.240, the following actions shall be commenced within fifteen (15) years after the cause of action first accrued:

(1) An action upon a judgment or decree of any court of this state or of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon.

(2) An action upon a recognizance, bond or written contract.

(3) An action upon the official bond of a sheriff, marshal, clerk, constable or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, conservator, or trustee appointed by a court or authority of law.

(4) An action upon an appeal bond or bond given on a supersedeas, attachment, injunction, order of arrest or for the delivery of property or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge or by an officer pursuant to the directions of a court or judge, in an action or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution or decree, upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding, or upon a bond or obligation for the payment of money or property or for the performance of any undertaking.

Section 33. The following KRS sections are repealed:

386.093 When power of attorney not affected by disability.

396.010 Verification of claims required — Exception.

396.020 Action not to be brought before demand — Exception — When additional affidavit unnecessary.

396.025 Limitations on filing claims.

396.027 Limitation on time to commence action on rejected claim.

396.030 Interest accruing after death — When allowed.

396.040 Usury and credits to be deducted before claim paid.

396.050 Reference to commissioner; advertisement of.

396.060 Liability of heirs and devisees — Joint action against them and representative.

396.070 Liability of representative, heir and devisee of heir or devisee.

396.080 Equitable action by creditor — Lien may be obtained.

396.090 Preferred claims.

396.100 Liens.

396.110 Alienation of estate — Effect of.

396.130 Refunding bond — Representative may require.

396.140 Overpayment — Recovery of.

396.150 Examination of claimant.

396.160 Insolvent nonresident decedent — Payment of debts.

396.170 Right to pay obligations of decedent in advance of maturity.

396.180 Duty of personal representative of mental patient.

413.200 Action against personal representative who has settled accounts.

413.210 Action against heirs and personal representative when estate divided.

The Committee Amendment No. 1 to **SB 8** is as follows:

Amend printed copy of GA copy of **SB 8** on page 28, lines 11-12, by deleting the same in their entirety.

The Committee Amendment No. 2 to **SB 8** is as follows:

Amend printed copy of GA copy of **SB 8** on page 28, line 10, after "33." insert the following:

"KRS 395.605 is amended to read as follows:

(1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which said claims and debts have been provided for; that all inheritance, estate or similar death taxes have been paid and a duplicate or photocopy of such tax releases shall be attached, if available; that all court

costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and his surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.

(2) If a proposed settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. *Provided, however, no verified waiver need be obtained from a non-residuary legatee who has received and receipted for his legacy, the cancelled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction.* The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

(3) In the event that one or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

Section 34."

The Committee Amendment No. 3 to SB 8 is as follows:

Amend printed copy of GA copy of **SB 8** on page 7, lines 11-26, by deleting the same in their entirety and inserting in lieu thereof the following:

"*(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a petition for advice on a proposed settlement. In the petition for advice the fiduciary shall set forth what proposals the fiduciary is making concerning distribution of property, liquidation of property, payment of debts, costs of administration or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part and may also indicate fees and commissions proposed to be paid to the fiduciary and, where appropriate, to the attorney. The fiduciary shall give written notice to all beneficiaries and known creditors of the estate by certified mail with return receipt requested, informing them that they have ten (10) days to file objections to the proposed settlement with the court. Any proposed settlement shall contain the appropriate legal authority for the proposed distribution. There shall be filed with the proposal a prepared order for the court. If no objections are filed within ten (10) days of receipt of the notice and the court signs the order, the fiduciary shall disburse the assets in accordance with the order. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the approved proposal. If it appears to the court that the distribution was in conformity with its order, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety, without further hearing or notice to any person.*"; and

On page 8, lines 1-21, by deleting the same in their entirety.

SB 71, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.025 is amended to read as follows:

(1) The statements of a petition for dissolution of marriage concerning the residence of the parties and irretrievable breakdown of the marriage shall not be taken as true because of the respondent's failure to deny the statements, and the facts as to residence of the parties must be proved by one or more credible witnesses.

(2) The petitioner or respondent in an action for dissolution of marriage may be considered a credible witness, within the meaning of subsection (1) of this section, to be utilized in order to prove residency of the parties. The provisions of this subsection shall be retroactive in effect.

SB 77, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from distribution and sale and shall be set apart by the district court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the children surviving.

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the district court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding one thousand dollars ($1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse, or, if there is no surviving spouse, the children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of seven thousand five hundred dollars ($7,500).

(4) The exemption provided in this section applies where the husband or wife dies testate and the surviving spouse renounces the will as provided in KRS 392.080 and also under circumstances set out in KRS 395.455.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **SB 169.**

Labor and Industry: **HB 478, HB 481.**

Education: **HB 471, HB 585, HB 602, HB 604, HB 606, HB 622, HB 623, HB 624.**

Judiciary-Criminal: **HB 512.**

Appropriations and Revenue: **HB 589.**

Cities: **HB 514.**

State Government: **HB 354, HB 464, HB 517, HB 560, HB 590, HB 291, HJR 28, HCR 48, HR 72, SB 11.**

Business Organizations and Professions: **HB 319.**

Motions, Petitions and Communications (continued)

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that his vote be changed from "yea" to "nay" on **HB 341**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Casebier moved that he be recorded as voting "nay" on **HB 339** and **HB 407**. Agreed.

Representative Lyne moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lyne moved the adoption of the following **HR 86**:

HR 86. A RESOLUTION adjourning the House of Representatives in honor and memory of Moss Walton.

With deepest regret, we pay homage and tribute to a true Kentucky gentleman, Moss Walton.

WHEREAS, Moss Walton of Russellville, Kentucky departed this life on December 26, 1987; and

WHEREAS, Moss Walton was a beloved husband, father, and grandfather; and

WHEREAS, this outstanding citizen served in education for thirty-nine years before retiring, January 1, 1967; and

WHEREAS, Moss Walton taught at Adairville High School from 1927 to 1932, when he resigned to complete work on his masters at Northwestern; and

WHEREAS, in 1932 he became assistant to the director of research in the state Department of Education; and

WHEREAS, in 1934 Moss Walton distinguished himself by developing the census and attendance system for the state which has not changed since that time; and

WHEREAS, Moss Walton demonstrated his leadership abilities as a representative of Kentucky at a meeting in Washington, D.C. called by the Office of Education to develop a uniform pupil accounting system; and

WHEREAS, this honorable man served as superintendent of the Russellville City Schools from 1944 to 1950; and

WHEREAS, Moss Walton then returned to the state Department of Education as a supervisor in the Division of Instruction until his retirement; and

WHEREAS, his efforts, devotion, and accomplishments will long be remembered;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does express its bereavement upon the loss of Moss Walton, and does extend to his family its heartfelt sympathy.

Section 2. That when the House does adjourn this day, February 9, 1988, it does so in memory of Moss Walton.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to his wife, Mrs.

Nell Snider Walton and family.

HR 86 was adopted by voice vote.

Representative Cline moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Cline moved the adoption of Legislative Citations No. 58, No. 59, and No. 60. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Gary Erwin a teacher at Olive Hill Elementary School for the distinction of receiving a Kentucky Educational Foundation Mini-Grant Award. Your dedication and commitment to your profession is commendable and the students entrusted to you both now and in future years will benefit from this achievement.

The House of Representatives joins Representative Gene Cline in acknowledging this prestigious recognition and commends your dedication to your profession.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Marion Eyster a teacher at Upper Tygart Elementary School for the distinction of receiving a Kentucky Educational Foundation Mini-Grant Award. Your dedication and commitment to your profession is commendable and the students entrusted to you both now and in future years will benefit from this achievement.

The House of Representatives joins Representative Gene Cline in acknowledging this prestigious recognition and commends your dedication to your profession.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Margie Riffe a teacher at Willard Elementary School for the distinction of receiving a Kentucky Educational Foundation Mini-Grant Award. Your dedication and commitment to your profession is commendable and the students entrusted to you both now and in future years will benefit from this achievement.

The House of Representatives joins Representative Gene Cline in acknowledging this prestigious recognition and commends your dedication to your profession.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 87**:

HR 87. A RESOLUTION expressing the concern of the Kentucky House of Representatives regarding labor-management relations.

WHEREAS, labor-management peace and harmony is productive of good will and trust and is essential to Kentucky's efforts to develop our economy and attract new jobs and industry; and

WHEREAS, Kentucky has made significant progress toward labor-management cooperation and has received national recognition for our efforts during the past decade; and

WHEREAS, both peace and progress are put at risk by recent threats of "war" and strife between Kentucky contractors and construction unions; and

WHEREAS, we have the obligation to insure that fair and free debate does not degenerate into conflict and violence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky construction interests be warned against inflammatory rhetoric or willful agitation that might produce confrontation and strife.

Section 2. That all such interests be implored to cooperate in good-faith efforts to reduce the rates of injury and fatality in the building and construction industry.

Section 3. That all such interests be urged to cooperate in producing better quality in our public works construction programs at more cost effective rates.

Section 4. That threats or acts of "war" or verbal violence be constrained and that "targeting" of Kentucky cities for any divisive agenda or campaign of agitation be formally and publicly condemned.

HR 87 was adopted by voice vote.

Representative Scorsone moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following **HR 79**:

HR 79, A RESOLUTION calling for the protection of the Henry Watt House from demolition in Lexington, Kentucky.

WHEREAS, the Henry Watt House (also known as the Saunier House) is an architecturally and historically important house built in 1818; and

WHEREAS, the Watt House is one of the earliest surviving houses on High Street in downtown Lexington and is listed on the National Register at the state level of significance, a level of significance which only 15% of Kentucky's National Register listings are accorded; and

WHEREAS, the Kentucky Heritage Council strongly supports the preservation of this important building as does the Lexington-Fayette County Historic Commission; and

WHEREAS, there is no State Register that affords protection to properties affected by state projects in the same manner that the National Register affords protection to properties affected by federally funded projects;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House recognizes the historic and architectural value to the Commonwealth of the Henry Watt House at 703 West High Street in Lexington, Kentucky and calls for the protection of the Watt House against indiscriminate development of the downtown area that may require its demolition.

Section 2. That the Clerk of the House is directed to transmit copies of this resolution to members of the Lexington Fayette Urban County Council, the Kentucky Heritage Council and the Lexington Fayette County Historic Commission.

HR 79 was adopted by voice vote.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo announced that the House will meet at 2:00 p.m., February 11, 1988 and at 4:00 p.m., February 16, 1988.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 203, Representative LeMaster; **HB 204**, Representative Arnold; **HB 248**, Representative Noe; **HB 309**, Representative Ackerson; **HB 361**, Representative Ackerson; **HB 392**, Representative Donnermeyer; **HB 405**, Representative Arnold; **HB 463**, Representative Donnermeyer; **HB 478**, Representative Seum; **HB 481**, Representative Seum; **HB 485**, Representative Donnermeyer; **HB 486**, Representative Ackerson; **HB 494**, Representative L. Clark; **HB 495**, Representative Seum; **HB 496**, Representatives Layman, Preston, Richards; **HB 498**, Representative Seum; **HB 500**, Representative Seum; **HB 504**, Representative P. Richardson; **HB 533**, Representative Seum; **HB 550**, Representatives Hancock, Hourigan; **HB 551**, Representatives Hancock, Hourigan; **HB 552**, Representatives Hancock, Hourigan; **HCR 62**, Representative Hancock.

Representative Meyer requested that his name be withdrawn as co-sponsor on **HB 230**.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 425**, by Representative Kerr:

Amend printed copy of **HB 425** on page 1, line 13, by deleting the word "*electric*" and by substituting therefore the word "*sewage*".

Floor Amendment No. 1 to **HB 522**, by Representative Heleringer:

Amend printed copy of **HB 522** on page 1, line 15,

By deleting the word "*materials*" and inserting in lieu thereof the word "*publications*"

Floor Amendment No. 2 to **SB 53**, by Representative Riner:

Amend printed copy of **SB 53** on page 2, line 25, following the word "election" by inserting the following: "*, except no permanent committee with a primary purpose of supporting or opposing issues of public importance shall accept more than four thousand dollars ($4,000) from any one (1) person or any contributing organization in any one (1) election*"; and

On page 3, line 1, following the word "candidate" by inserting the following: "*or to any one permanent committee with a primary purpose of supporting or opposing issues of public importance*"

The Clerk announced the following meetings:

Budget Review Subcommittee on Corrections, February 10, 1988, Room 104, 12 noon.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 10, 1988.

The motion that the House adjourn was adopted by voice vote.

WEDNESDAY, FEBRUARY 10, 1988

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 9, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 4**, **SB 14**, **SB 118**, **SB 139**, **SB 142**, **SB 148**, **SB 150**, **SB 166**, **SB 214**, **HB 175** with Senate Amendment, **HB 311**, **HB 367** and **HJR 1**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 14** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:10 p.m.)

HB 14 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 89, by Representative Stumbo: A RESOLUTION in recognition of the 50th Anniversary of the March of Dimes.

Representative Stumbo moved the adoption of the following **HR 89**.

HR 89, A RESOLUTION in recognition of the 50th Anniversary of the March of Dimes.

WHEREAS, the March of Dimes Birth Defects Foundation is celebrating its 50th anniversary as a voluntary health organization working to assure healthy lives for America's children and prevent disability and illness throughout the districts of our state and the nation; and

WHEREAS, the March of Dimes was founded in 1938 to raise funds through the efforts of thousands of volunteers to support the development of a vaccine that proved to virtually eliminate the crippling toll of polio; and

WHEREAS, for the past 30 years the March of Dimes has been a pioneer in preventing birth defects, the nation's number one child health problem, through research, education and health care programs; and

WHEREAS, the March of Dimes commitment to improving maternal and child health care has helped to reduce the incidence of birth defects, low birthweight and infant mortality; and

WHEREAS, the Commonwealth's hope for assuring future generations of children a healthy start in life depends on the efforts and commitment of all our citizens;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That 1988 is declared March of Dimes 50th Anniversary Year and that all Kentuckians are urged to celebrate this year by supporting March of Dimes efforts to prevent birth defects.

Section 2. That a copy of this resolution be sent to the national headquarters of the March of Dimes Birth Defects Foundation, 1275 Mamaroneck Avenue, White Plains, N.Y. 10605.

HR 89 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HR 89**.

The following members requested that their names be added as Co-sponsors of **HR 89**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Blandford, Blevins, Bronger, J. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Keith, Layman, Lefevers, LeMaster, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, Moberly, Morris, Napier, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Introduction of Bills and Resolutions

HB 644, by Representative Little: AN ACT relating to community action agencies.

HB 645, by Representative Burch: AN ACT relating to alcoholic beverage control.

HB 646, by Representatives Callahan and Meyer: AN ACT relating to the benefits of city and urban-county employes.

HB 647, by Representative Lear: AN ACT relating to the practice of dentistry.

HB 648, by Representatives Yates, L. Clark, Donnermeyer and Burch: AN ACT relating to boiler safety.

HB 649, by Representative Lear: AN ACT relating to crimes and punishments.

HCR 90, by Representatives Siler and Allen: A CONCURRENT RESOLUTION recognizing and encouraging the use of the Armed Services Vocational Aptitude Battery testing program in Kentucky's secondary schools.

Report of Committees

The Committee on Rules reported **HB 203**, **HB 196** and **HB 300** have been posted for passage in Orders of the Day, February 11, 1988, 1988.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: **HB 633**, **HB 642**.

Cities: **HB 639**.

Counties and Special Districts: **HB 635**.

Education: **HB 634**.

Health and Welfare: **SB 88**.

Labor and Industry: **HB 632**, **HB 640**.

Natural Resources and Environment: **HB 631**, **HB 638**.

State Government: **HB 630**, **HB 636**, **HB 637**, **HB 643**, **HB 641**.

Transportation: **SB 134**.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 538** and **HB 540**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 538, AN ACT relating to refunding bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 58.100 is amended to read as follows:

The governmental agency may issue new bonds to provide funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by KRS 58.010 to 58.140. The new bonds shall be secured to the same extent and shall have the same source of payment as the bonds refunded. *Furthermore, the maturity schedule of the new bonds shall not extend beyond the remaining life of the original bonds.*

HB 540, AN ACT relating to the Kentucky development finance authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky development finance authority shall submit to the legislative research commission for referral to the proper legislative committee a biennial report on the progress of businesses that have received financial assistance from the authority in the current year or in the previous five (5) years. The report shall include the following information about each of these businesses:

(a) The amount of the loan provided by the authority;

(b) The closing date of the loan provided by the authority;

(c) The growth or decline in the number of persons employed by the business receiving assistance. This includes only those persons employed at the funded project site or whose employment is a result of the funded project. Information provided by the secretary of the human resources cabinet pursuant to KRS 341.220(6) shall be used in the calculation of these employment changes for all businesses which have signed a six (6) year release of that information. The authority shall contact directly those businesses not signing a release of information pursuant to KRS 341.190(4) to determine the changes in the number of persons employed;

(d) An estimate of state and local taxes paid by each business;

(e) An estimate of the effect of the assisted business on other businesses within the state; and

(f) An estimate of the increased cost of public services resulting from each funded project including, but not limited to, roads, sewer, water, utilities, pollution control and education.

(2) The biennial report shall also include the rationale used for funding projects during the biennium

being reported which:

(a) Cumulatively receive more than one million dollars ($1,000,000) of Kentucky development finance authority assistance, or combined Kentucky development finance authority and economic development bond program assistance;

(b) Receive more than five thousand dollars ($5,000) per full-time job estimated to be created or retained two (2) years following completion of the project.

The estimation of jobs shall reflect a realistic projection of the project's effects based upon the authority's own analysis of the proposed project's effects.

Section 2. KRS 154.070 is amended to read as follows:

(1) Any borrower may apply to the authority for assistance in an eligible project. Applications shall be made in a manner prescribed by regulations of the authority.

(2) The authority shall hold such hearings and examinations as to each application as shall be necessary to determine whether the public purposes of this chapter and the development of the particular community will be accomplished by granting financial assistance to such applicants.

(3) The authority may enter into such contract or agreement as may be necessary, with the borrower or with the insurance corporation, to lend or to guarantee the lending of the amount to be borrowed.

(4) Beginning July 15, 1988, all applications shall contain a release to be signed by the borrower which waives certain employer confidentiality rights pursuant to KRS 341.190(4) and permits the authority to collect, examine and publish summary employment information filed by the borrower with the cabinet for human resources pursuant to KRS 341.005to 341.990. This waiver shall apply to a period beginning on a date two (2) years prior to the closing of the authority's loan and ending six (6) years following the date of that loan's closing and shall apply only to the following information:

(a) The total number of persons employed by an employer or employed in the appropriate subunit of an employer's operation; and

(b) The summary amount of wages paid to employes in a business or appropriate subunit.

This waiver shall not be interpreted to permit the release of any information pertaining to an individual employe or which identifies individual employes.

(5) Any applicant for assistance after July 15, 1988, who does not sign the release described in subsection (4) of this section, shall not be eligible to receive assistance from the authority.

(6) The authority and its staff shall maintain a written record of all loan inquiries, written or oral, made by potential borrowers or on behalf of potential borrowers. This record shall include the name and address of the potential borrower, a summary of the inquiry made by the potential borrower, the representative of the authority, and disposition of the inquiry.

Section 3. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary for human resources considers necessary for the proper administration of this chapter. Such records shall be open for inspection and subject to being copied by the secretary or his authorized representatives at any reasonable time and as often as necessary.

(2) The secretary for human resources may require any employing unit to furnish to the department at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of

each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary for human resources considers necessary to the effective administration of this chapter.

(3) All letters, reports, communications, and other matters, written or oral, from employer or worker, to the secretary for human resources or any of his agents, representatives, or employes, or to the commission, or to any board or official functioning under this chapter, which have been written, sent, or made in connection with the requirements and administration of this chapter, shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no employer or employe, or his representative, testifying before the commission, the secretary for human resources or any duly authorized representative thereof, shall be exempt from punishment for perjury. Information thus obtained shall not be published or be open for public inspection except to public employes in the performance of their duties, in any manner revealing or indicating the employing unit's identity, but any claimant at a hearing before the commission, the secretary for human resources or his duly authorized representative, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

(4) In regard to certain information, employers may waive the right to confidentiality granted in subsection (3) of this section in order to qualify for programs of financial assistance offered by the state. This waiver shall apply only to the following information:

(a) The total number of persons employed by an employer or employed in the appropriate subunit of an employer's operation; and

(b) The summary amount of wages paid to employes in a business or appropriate subunit.

This waiver shall not be interpreted to permit the release of any information pertaining to an individual employe or which identifies individual employes.

Section 4. KRS 341.220 is amended to read as follows:

(1) In the administration of this chapter, the secretary shall:

(a) To the fullest extent consistent with the provisions of this chapter, cooperate with the federal department of labor;

(b) Make such reports in such form and containing such information as such agency may from time to time require;

(c) Comply with such provisions as such agency may from time to time find necessary to assure the correctness and verification of such reports; and

(d) Comply with the provisions of title III of the social security act relating to the expenditure of such funds as may be allotted and paid to this state for the purpose of assisting in the administration of this chapter.

(2) Upon request therefor the secretary shall furnish to any agency of this or any other state or the United States charged with the administration of public works or assistance, through public employment or otherwise, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter.

(3) The secretary may make records relating to the administration of this chapter available to the railroad retirement board and may furnish the railroad retirement board, at the expense of that board, as many copies thereof as the board requests.

(4) The secretary may afford reasonable cooperation, including reciprocal collection of contributions by the enforcement of foreign judgments, with every agency of any state or of the United States charged with the responsibility of administering an unemployment insurance law.

(5) The secretary shall require employment offices in this state, upon request of a public agency administering or supervising the administration of a state plan approved under part A of title IV of the

social security act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such act, shall, and, notwithstanding any other provision of law, is hereby authorized to furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (a) whether such individual is receiving, has received, or has made application for unemployment compensation, and the amount of any such compensation being received by such individual; (b) the current (or most recent) home address of such individual; and (c) whether such individual has refused an offer of employment, and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor, provided that the secretary shall require employment offices in this state to furnish such other information as shall be required by the regulations of the secretary of health, education and welfare.

(6) The secretary, upon request of a public agency and presentation of an employer's waiver of confidentiality as described in KRS 341.190(4), shall, on a timely basis and in a form useful to the requesting agency, provide the information requested and other non-employe specific information which will assist the requesting agency in fulfilling its statutory mandates.

The Committee Amendment No. 1 to **HB 540** is as follows:

Amend printed copy of **HB 540** on Page 1, Line 7 after the word *year* delete the word *or* and insert the word *and*

On Page 3, Line 16 after the word *all* delete the word *applications* and insert the words *loan documents*

On Page 4, Line 9 delete the words *Any applicant for assistance*

On Page 4, Line 10 after the word *1988,* delete the word *who* and insert the words *no loan may be issued to any business whose legal representative*

On Page 4, Line 11 after the word *section* insert a . and delete the words *shall not be eligible to receive assistance from the authority.*

The Committee on Appropriations and Revenue reported **HB 526** with Committee Amendment attached thereto, **HB 537**, **HB 539**, and **HJR 57** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 526. AN ACT relating to economic development bond fund projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The commerce cabinet shall, thirty (30) days prior to the commitment of funds, submit to the state property and buildings commission and the legislative research commission, for referral to the appropriate committee. The following information shall be provided for each proposed economic development bond fund project:

(a) A copy of the final proposed commitment contract and related agreements;

(b) The project's estimated job creation and job retention;

(c) The estimated percentage of public and private local involvement;

(d) The project's estimated payback and contribution in retiring the associated debt obligation;

(e) The amount of the proposed funding;

(f) The terms of repayment including the interest rate, term and schedule of payments;

(g) An explanation of the funding terms;

(h) The degree to which the project would compete with similar businesses in the area;

(i) A list of the principal owners, partners, and stockholders who own twenty percent (20%) or more of the business, and of the officers and directors of the project to be funded; and

(j) The amendments to the above as they occur.

(2) If the appropriate interim committee disapproves a decision to fund a proposed project, the decision shall not be implemented unless it is:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed, in writing, in explanatory detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

(3) A biennial report shall be submitted with the budget request that includes the amount of economic development bond fund proceeds still available, the amount of interest earned on unused proceeds, any refundings of economic development bonds, a list of loans, grants or other forms of assistance made and to whom, the original and remaining amount of each loan, the principal and interest repaid in that fiscal year and the disposition of these funds.

The Committee Amendment No. 1 to **HB 526** is as follows:

Amend printed copy of **HB 526** on Page 2, Line 8 after the word *interim* insert the word *legislative*

On Page 2, Line 19 after the word *available,* insert the words *including principle and interest repayments,*

On Page 2, Line 20 after the word *proceeds* and before the , insert the words *and principle and interest repayments*

HB 537, AN ACT relating to financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.410 is amended to read as follows:

(1) The office for investment and debt management established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements.

(b) The maximization of the return on state investments given the cash flow and liquidity requirements.

(c) The coordination and monitoring of cash needs relative to investment and debt activity.

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified.

(e) The evaluation of revenue projections relative to proposed revenue bond issues.

(f) The responsibility for liaison with the general assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments.

(g) All other functions of the department relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the state property and buildings commission and the state investment commission.

(2) The office for investment and debt management shall render monthly written reports concerning the performance of each investment to the state investment commission.

(3) The office for investment and debt management shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The office of investment and debt management shall submit a report at the end of each fiscal year to the legislative research commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, and disposition of savings.

(5) Nothing in this section shall authorize any act inconsistent with the authority granted the state investment commission by KRS 42.500 and 42.525.

HB 539. AN ACT relating to economic development bond fund projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The commerce cabinet shall conduct an annual evaluation of each economic development bond fund project which has been funded by the cabinet according to the selection criteria and the state's overall economic development program. This analysis, along with the documentation upon which the analysis is based, shall be submitted to the legislative research commission for referral to the appropriate committee.

(2) All commerce cabinet economic development bond program funding agreements shall require an officer of the receiving business to waive confidentiality rights relating to unemployment insurance information filed on behalf of the business with the cabinet for human resources. The waiver shall permit the secretary of commerce or his designee to collect, examine and publish summary employment information filed by the business receiving funds pursuant to KRS 341.005. The waiver shall include a period of two (2) years prior to the closing of the agreement and ending six (6) years after the agreement. The data shall include:

(a) The total number of persons employed by the business or the subunit of the business being funded; and

(b) The summary amount of wages paid to employes in the business or appropriate subunit. This waiver shall not be interpreted to permit the release of any information pertaining to an individual employe or which identifies individual employes.

(3) Any business seeking assistance from the economic development bond fund after July 15, 1988, for which the waiver described in subsection (2) of this section is not signed, shall not be eligible to receive assistance.

HJR 57. A JOINT RESOLUTION authorizing and establishing a task force to study and recommend a state debt capacity model and debt limits.

WHEREAS, it is the responsibility of the legislature to appropriate tax dollars wisely and carefully; and

WHEREAS, Kentucky is nationally ranked 10th from the highest in net tax-supported debt per capita and 7th from the highest in net tax-supported debt as a percent of personal income; and

WHEREAS, it is anticipated that bonding will be of great demand in the future, and Kentucky has no statutory or constitutional limit on revenue bond debt, it is incumbent upon the Legislature as the steward of public funds, to determine safe levels of debt for which future generations of Kentuckians will be responsible; and

WHEREAS, a debt capacity model, which provides an indicator of the debt burden upon the citizens of Kentucky and the relationship of our state debt to revenues, would provide the legislature with a tool for judging the level of debt incurred;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth Kentucky:

Section 1. That the General Assembly should establish a task force to study and recommend a state debt capacity model and debt limits. The task force shall consist of: two legislators, one legislative staff member, and one economist, appointed by the Legislative Research Commission; the director of the Office of Investment and Debt Management, the secretaries (or their appointees) of the Revenue Cabinet and the Finance and Administration Cabinet, and the chairman of the Governor's Financial Policy Council. These debt capacity estimates should be used in the budgeting process and in estimating the state's future ability to meet debt service requirements.

Section 2. This task force should report its findings to the Legislative Research Commission no later than January 1, 1989, for referral to the appropriate committee of jurisdiction to prepare legislation establishing a state debt capacity model and debt limits. Staff services to be utilized in completing this study are estimated to cost $10.000 and shall be provided from the regular Legislative Research Commission budget.

The Committee on Counties and Special Districts reported **HB 468**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 468, AN ACT relating to urban county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.020 is amended to read as follows:

Upon a petition filed with the county clerk and signed by a number of registered voters equal to 5 percent of voters of the county voting in the immediate past general election, and, upon additional petitions equal to the number of municipal corporations within the county, filed with the county clerk and signed by a number of registered voters equal to 5 percent of the number of voters of each municipal corporation, voting in the immediate past general election, requesting a referendum be held on the question of adopting the urban county form of government, the fiscal court and the council of the largest city within the county shall appoint a representative commission composed of not less than twenty (20) citizens which shall devise a comprehensive plan of urban-county government. The plan shall include a description of the form, structure, functions, powers and officers and their duties of the proposed urban-county government; the procedures by which the original plan may be amended; and such other provisions as the commission shall determine; and shall be consistent with the provisions of the Constitution of Kentucky. This plan shall be advertised at least ninety (90) days before a general election at which the voters will be asked to approve or disapprove the adoption of the plan. The votes shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of election commissioners to the county clerk. *If fifty-one percent (51%) of those voting countywide are in favor of adopting the plan, and an additional fifty-one percent (51%) of the voters who reside in the unincorporated areas of the county are in favor of adopting the plan, the commissioners shall enter such fact of record and shall organize the urban-county government.* [~~If it appears that a majority of those voting are in favor of adopting the plan, the commissioners shall enter such fact of record and shall organize the urban-county government.~~]

The Committee Substitute to **HB 468** is as follows:

HB 468, AN ACT relating to urban county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.020 is amended to read as follows:

Upon a petition filed with the county clerk and signed by a number of registered voters equal to 5 percent of voters of the county voting in the immediate past general election, and, upon additional petitions equal to the number of municipal corporations within the county, filed with the county clerk and signed by a number of registered voters equal to 5 percent of the number of voters of each municipal corporation, voting in the immediate past general election, requesting a referendum be held on the question of adopting the urban county form of government, the fiscal court and the council of the largest city within the county shall appoint a representative commission composed of not less than twenty (20) citizens which shall devise a comprehensive plan of urban-county government. The plan shall include a description of the form, structure, functions, powers and officers and their duties of the proposed urban-county government; the procedures by which the original plan may be amended; and such other provisions as the commission shall determine; and shall be consistent with the provisions of the Constitution of Kentucky. This plan shall be advertised at least ninety (90) days before a general election at which the voters will be asked to approve or disapprove the adoption of the plan. The votes shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of election commissioners to the county clerk. If it appears that a majority of those voting *in the total incorporated areas of the county and a majority of those voting in the unincorporated areas of the county* are in favor of adopting the plan, the commissioners shall enter such fact of record and shall organize the urban-county government.

The Committee on Judiciary-Criminal reported **HB 309**, **HB 349** with Committee Amendment attached thereto, **HB 392**, and **HB 400** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 309. AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification [~~between persons not married to each other~~] involving the sex organs of one (1) person and the mouth or anus of another;

(2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped;

(3) [~~"Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses are not married to one another for purposes of this chapter if either or both spouses have filed a petition under KRS Chapter 403 and they are living apart;~~

~~(4)~~] "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct;

(4)[~~(5)~~] "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(5)[~~(6)~~] "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(6)[~~(7)~~] "Sexual contact" means any touching of the sexual or other intimate parts of a person [~~not married to the actor~~] done for the purpose of gratifying the sexual desire of either party; and

(7)[~~(8)~~] "Sexual intercourse" means sexual intercourse in its ordinary sense [~~but is limited to sexual intercourse between persons not married to each other~~]. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

HB 349. AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of such offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, such person shall not be eligible for probation, shock probation or conditional discharge.

(2) When a person has been convicted of a felony and is committed to a correctional facility maintained by the corrections cabinet and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, such person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while waiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which said person is awaiting trial.

(4) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a class A, B, C or D felony, and such person was in possession or came into possession of controlled substances as defined in KRS Chapter 218A, during the commission of the crime, such person shall not be eligible for probation, shock probation or conditional discharge.

The Committee Amendment No. 1 to **HB 349** is as follows:

Amend printed copy of **HB 349** on page 2, line 9, to insert "*or*" following "*B,*" and to delete "*or D*" and to delete "*was in*"; and

On page 2, line 10, to delete "*possession of*"

HB 392, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 640.040 is amended to read as follows:

(1) No youthful offender who has been convicted of a capital offense who was under the age of *eighteen (18)* [~~sixteen (16)~~] years at the time of the commission of the offense shall be sentenced to capital punishment. [~~A youthful offender may be sentenced to capital punishment if he was sixteen (16) years of age or older at the time of the commission of the offense.~~] A youthful offender convicted of a capital offense regardless of age may be sentenced to a term of imprisonment appropriate for one who has committed a Class A felony and may be sentenced to life imprisonment without benefit of parole for twenty-five (25) years.

(2) No youthful offender shall be subject to persistent felony offender sentencing under the provisions of KRS 532.080 for offenses committed before the age of eighteen (18) years.

(3) No youthful offender shall be subject to limitations on probation, parole or conditional discharge as provided for in KRS 533.060.

(4) Any youthful offender convicted of a misdemeanor or any felony offense which would exempt him from KRS 635.020(2), (3), (4), (5) or (6) shall be disposed of by the circuit court in accordance with the provisions of KRS 635.060.

HB 400, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.010 is amended to read as follows:

(1) A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

(2) Criminal homicide also includes causing the death of an unborn child, if in performing the acts which caused the death of the unborn child the actor, without lawful justification:

(a) Either intended to kill or do great bodily harm to the mother or her unborn child or knew that such acts would cause death or great bodily harm to the mother or her unborn child;

(b) He knew that his acts created a strong probability of death or great bodily harm to the mother or her unborn child; and

(c) He knew, or reasonably should have known under all of the circumstances, that the mother was pregnant.

(3) For purposes of this section, "unborn child" means an individual organism of the human species from fertilization to live birth.

(4) This law shall not apply to the acts of physicians which cause the death of an unborn child if those acts are committed during medically acceptable procedures necessary for the medical care of the mother.

(5) This law shall not apply to acts of physicians which cause the death of an unborn child if those acts were committed during a lawful pregnancy termination.

(6) The provisions of this section shall not be construed to prohibit the prosecution of any person under any other provision of law.

The Committee Amendment No. 1 to **HB 400** is as follows:

Amend printed copy of **HB 400** on page 1, lines 1 through 21, to delete the same and to insert in lieu thereof:

Section 1. KRS 507.010 is amended to read as follows:

A person is guilty of criminal homicide when he causes [the] death [of another human being] under circumstances which constitute murder, *murder of an unborn child,* manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

SECTION 2. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of murder of an unborn child when in performing acts which cause the death of an unborn child, the actor, without lawful justification:

(a) Either intended to kill or do great bodily harm to the mother or her unborn child or knew that his acts created a strong probability of death or great bodily harm to the mother or her unborn child; and

(b) He knew, or reasonably should have known under all of the circumstances, that the mother was pregnant.

(2) For purposes of this section:

(a) "Unborn child" means an individual organism of the human species from fertilization to birth; and

(b) "Person" shall not include the pregnant woman whose unborn child is killed.

(3) This law shall not apply to the acts of physicians which cause the death of an unborn child if those acts are committed during medically acceptable procedures necessary for the medical care of the mother.

(4) This law shall not apply to acts of physicians which cause the death of an unborn child if those acts were committed during a lawful pregnancy termination.

(5) The provisions of this section shall not be construed to prohibit the prosecution of any person under any other provision of law.

(6) Murder of an unborn child is a Class A Felony."

And on page 2, lines 1 through 11, to delete the same.

Calendar

HB 317, **HB 361**, **HB 410**, **HB 497**, **HB 509**, **SB 112**, **HB 37**, **HB 282**, **HB 418**, **HB 507**, **HB 437**, **HB 533**, **HB 397**, **HB 569**, **SB 8**, **SB 71** and **SB 77** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 223, **HB 544**, **HB 81**, **HB 434** and **HB 455** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 425, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Floor Amendment No. 1 to **HB 425**. Agreed.

Representative Kerr moved that **HB 425**, as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 12. (See February 10, 1988 roll call on **HB 425** - Appendix A.)

HB 425, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 425**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 1 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SCR 1** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 10, 1988 roll call on **SCR 1** - Appendix A.)

SCR 1 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SCR 1** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 348 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 348** be passed.

On the roll call the vote was: Yeas 80, Nays 11. (See February 10, 1988 roll call on **HB 348** - Appendix A.)

HB 348 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 348** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 6, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved the adoption of Committee Amendment No. 1 to **HB 6**. Agreed.

Representative Maggard moved that **HB 6**, as amended, be passed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HB 6**. Rejected.

On the roll call the vote was: Yeas 95, Nays 3. (See February 10, 1988 roll call on **HB 6** - Appendix A.)

HB 6, as amended, was passed and the title agreed to.

Representative Maggard moved that the vote by which **HB 6**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 401 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Will moved that **HB 401** be passed.

On the roll call the vote was: Yeas 80, Nays 12. (See February 10, 1988 roll call on **HB 401** - Appendix A.)

HB 401 was passed and the title agreed to.

Representative Will moved that the vote by which **HB 401** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute to **HB 50**. Agreed.

Representative Mason moved that **HB 50**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 10, 1988 roll call on **HB 50** - Appendix A.)

HB 50, by way of Committee Substitute, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 50**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 449** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 10, 1988 roll call on **HB 449** - Appendix A.)

HB 449 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 449** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 60, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of Committee Amendment No. 1 to **HJR 60**. Agreed.

Representative M. Brown moved that **HJR 60**, as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 10, 1988 roll call on **HJR 60** - Appendix A.)

HJR 60, as amended, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HJR 60**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 2, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Substitute to **SB 2**. Agreed.

Representative Richards moved that **SB 2**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 75, Nays 19. (See February 10, 1988 roll call on **SB 2** - Appendix A.)

SB 2, by way of Committee Substitute, was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 2**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 469 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 469** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 10, 1988 roll call on **HB 469** - Appendix A.)

HB 469 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 469** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 311**, **HB 367** and **HJR 1** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:58 p.m.)

Orders of the Day (continued)

SB 47 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 47** be passed.

On the roll call the vote was: Yeas 93, Nays 4. (See February 10, 1988 roll call on **SB 47** - Appendix A.)

SB 47 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 47** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 53, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Floor Amendment No. 1 to **SB 53**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 2.

On the roll call the vote was yeas 31-Ackerson, Ballard, Barrows, Blevins, Casebier, Castleman, L. Clark, P. Clark, Donnermeyer, Ford, Gedling, Gregory, Hancock, Handy, Hatcher, Heleringer, Johnson, A. Jones, Kerr, Mack, Napier, O'Brien, Reinhardt, Richards, Riner, Robinson, Scorsone, Seum, B. Smith, Todd, Turner. Nays 54-Adams, Adkins, Allen, Altman, Arnold, Blandford, Bronger, J. Brown, M. Brown, Burch, Callahan, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Farrow, Geveden, Gray, Guenthner, J. Harper, K. Harper, Hoover, Hourigan, Jackson, T. Jones, Layman, Lear, LeMaster, Little, Long, Lundergan, Lyne, Maggard, Mason, McElroy, Meyer, Moberly, Noe, Overstreet, Preston, Pritchett, Rapier, B. Richardson, P. Richardson, Ridley, R. Smith, Strong, Stumbo, Walker, White, Will, Yates.

Floor Amendment No. 2 to **SB 53** was rejected.

Representative Lear moved that **SB 53**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See February 10, 1988 roll call on **SB 53** - Appendix A.)

SB 53, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 53**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 650, by Representatives Reinhardt and Donnermeyer: AN ACT relating to title to real estate.

HB 651, by Representative Mason: AN ACT relating to surface mining.

HB 652, by Representatives Bruce and Stumbo: AN ACT relating to banking.

HB 653, by Representative O'Brien: AN ACT relating to cosmetologists.

HB 654, by Representatives Handy and Clarke: AN ACT relating to boats.

HB 655, by Representatives Ford and Maggard: AN ACT relating to school facilities surveys and declaring an emergency.

HB 656, by Representatives Deskins, White, Adkins, Lefevers, Keith, Siler, Maggard, Preston, Little, Mason, Strong and Noe: AN ACT relating to surface coal mining.

HB 657, by Representatives Deskins, Stumbo, White, Adkins, Lefevers, Keith, Siler, Little, Preston, Mason, Strong and Noe: AN ACT relating to surface coal mining.

HB 658, by Representatives T. Jones, Barrows, Noland, LeMaster, Lear, P. Richardson, Moberly, Lundergan, Mack, Hancock and Napier: AN ACT relating to the Kentucky River.

HB 659, by Representative Donnermeyer: AN ACT relating to crimes and punishments.

HB 660, by Representative Ridley: AN ACT relating to underground coal mining.

Report of Committees

The Committee on Rules reported **HB 37**, **HB 317**, **HB 397**, **HB 418**, **HB 437**, **HB 533**, **SB 8** and **SB 112** have been posted for passage in Orders of the Day, February 11, 1988.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 282**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 625**.

Agriculture and Small Business: **HB 470**.

Transportation: **HB 283**.

State Government: **HB 601**.

Natural Resources and Environment: **HB 638**.

Motions, Petitions and Communications

Representative Johnson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johnson moved that he be recorded as voting "yea" on **HB 50**. Agreed.

Representative Hancock moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hancock moved that he be recorded as voting "yea" on **SB 2**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 300**, by Representative Rapier:

Amend printed copy of Committee Substitute for **HB 300** on page 2, after line 7, by adding the following:

Section 2. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second or third class, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 and KRS 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.710 and KRS 95.740 to 95.787.

(3) Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, [~~or~~] third *or fourth* class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(4) Notwithstanding subsection (3) of this section, the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package

at premises not located within any city if[~~:~~

~~(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;~~

~~(b)~~] The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, if such premises are licensed to sell malt beverages at retail and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

(5) No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

Floor Amendment No. 1 to **HB 497**, by Representative B. Smith:

Amend printed copy of **HB 497** on page 3, line 25 by inserting after "*of*" and before "*one*" the word "*a*"

On page 7, line 15 and on line 17 by inserting after "*Kentucky*" the words "*state chartered*"

The Clerk announced the following meetings:

The Committee on Agriculture and Small Business, February 11, 1988, 9:00 a.m.

The Committee on Cities, February 11, 1988, 9:00 a.m.

The Budget Review Subcommittee on Tourism, February 12, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 11, 1988.

On the roll call the vote was yeas 87-Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 4-Casebier, Deskins, Heleringer, LeMaster.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 11, 1988

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend John Russell, Lakeside Christian Church, Ft. Mitchell, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives A. Jones and Morris.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 10, 1988 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 311, **HB 367** and **HJR 1** delivered to the Senate, signed by the president. Ordered delivered to the Governor.

Senate Message

Announcing the passage of **SB 175**, **HB 202** with Senate Amendment, and **HB 23**.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 10** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:04 p.m.)

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 91, by Representatives Blandford and Stumbo: A RESOLUTION inviting James D. Jobson to address the House of Representatives of the General Assembly.

Representative Stumbo moved the adoption of the following **HR 91**:

HR 91. A RESOLUTION inviting James D. Jobson to address the House of Representatives of the General Assembly.

WHEREAS, the late John Y. Brown, Sr., for many years honored and inspired this body by delivering a special Lincoln's Day address in this chamber on the anniversary of the birth of Abraham Lincoln; and

WHEREAS, it is the desire of this body to continue the traditional tribute to Lincoln so memorably delivered by John Y. Brown, Sr.; and

WHEREAS, the House wishes to establish the practice of alternately inviting representatives from the speech departments of Centre College and the University of Kentucky, biennially, to deliver the Lincoln's Day address; and

WHEREAS, the House wishes James D. Jobson, distinguished Centre College alumnus, to deliver the address this year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That James D. Jobson be hereby invited to address the House of Representatives on Thursday, February 11, 1988, in honor of Lincoln's birthday.

Section 2. That the family of John Y. Brown, Sr. be invited to attend and be extended privilege of the floor for this occasion.

Section 3. That copies of this resolution be sent to James D. Jobson, Box 21944, Lexington, Kentucky, 40522-1944, and to the family of John Y. Brown, Sr.

HR 91 was adopted by voice vote.

James Jobson, a University of Kentucky College of Law student and graduate of Centre College, delivered the Lincoln Day Address.

Introduction of Bills and Resolutions

HB 661, by Representatives Overstreet, Deskins, Altman, Reinhardt, Keith, Siler and B. Smith: AN ACT relating to teacher retirement.

HB 662, by Representative Stumbo: AN ACT relating to compensation of public officials.

HB 663, by Representative Stumbo: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

HB 664, by Representative Castleman: AN ACT relating to descent and distribution.

HB 665, by Representative Worthington: AN ACT relating to revenue and taxation and declaring an emergency.

HB 666, by Representatives Richards and B. Smith: AN ACT relating to the sales and use tax.

HB 667, by Representative Meyer: AN ACT relating to short-term borrowing by governmental agencies.

HB 668, by Representative Meyer: AN ACT relating to leasing property by local governmental agencies.

HB 669, by Representative P. Richardson: AN ACT relating to financial disclosure by financial institutions.

HB 670, by Representative Reinhardt: AN ACT relating to landscape architects.

HB 671, by Representative Long: AN ACT relating to licensure and permit fees of the cabinet for human resources.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 654**.

Banking and Insurance: **HB 652**.

Business Organizations and Professions: **HB 645**, **HB 653**.

Cities: **HB 646**.

Counties and Special Districts: **HB 644**.

Education: **HCR 90**, **HB 655**.

Heath and Welfare: **HB 647**, **HB 660**.

Judiciary-Civil: **HB 650**, **SB 4**, **SB 166**, **SB 150**, **SB 148**, **SB 142**.

Judiciary-Criminal: **HB 649**, **HB 659**.

Labor and Industry: **HB 648**.

Natural Resources and Environment: **HB 651**, **HB 656**, **HB 657**.

State Government: **HB 658**, **SB 214**, **SB 139**.

Transportation: **SB 118**, **SB 14**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 456**.

Education: **SB 38**.

Agriculture and Small Business: **HB 443**.

Energy: **HB 511**.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 230**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 230. AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or exposes for sale any meat or meat product which is produced outside of the United States shall indicate by sign displayed over each kind of meat or meat product produced outside the United States that such meat or meat product is "Foreign Meat" or "Imported Meat" using lettering at least two (2) inches in height and displayed either in or on the meat counter.

(2) Any person who sells or exposes for sale any meat or meat product which is produced outside of the United States shall indicate by label placed directly on the package or container that such meat or meat product is "Foreign Meat" or "Imported Meat" using lettering at least one-half (1/2) inch in height.

Section 2. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(18) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(19) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(20) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(21) Any person who violates the provisions of Section 1 of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

The Committee Substitute to **HB 230** is as follows:

HB 230, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or exposes for sale any fresh meat or fresh meat product which is produced outside of the United States shall indicate by a sign displayed over each kind of meat or meat product that the meat or meat product is "Foreign Meat" or "Imported Meat" using lettering at least two (2) inches in height and displayed either in or on the meat counter.

(2) "Meat" means pork, beef, poultry, mutton, and lamb.

(3) This Act shall not apply to fresh meat or fresh meat product:

(a) Not prepared for human consumption;

(b) Prepared by food service establishments as defined in KRS Chapter 219; or

(c) Where the meat or meat product is only a portion of the total consumer item.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any wholesaler, distributor or processor of fresh meat or fresh meat product who sells, exposes for sale, delivers or transfers any meat or meat product which is produced outside of the United States shall indicate to the retailer, purchaser or transferee in writing, that the meat or meat product is produced outside of the United States and shall indicate to the retailer, purchaser or transferee in writing, the place of origin of the meat or meat product.

Section 3. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(18) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(19) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(20) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(21) (a) Any person who violates the provisions of Section 1 or 2 of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Either the attorney general or the appropriate county health department shall have authority to prosecute violators of this Act.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor or processor fails to comply with the provisions of Section 2 of this Act.

The Committee on Agriculture and Small Business reported **HB 450** and **HB 597** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 450, AN ACT relating to real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.270 is amended to read as follows:

(1) If [~~Whenever~~] any real estate held by the commonwealth for the use or benefit of the University or the Kentucky agricultural experiment station is, in the opinion of the board of trustees of the University, no longer necessary for the purpose of the University or more suitable for some other use consistent with the interests of the University, the board of trustees may, with the approval of the governor, sell or otherwise dispose of such real estate. Such disposition shall be made in accordance with KRS 45.360, *and the proceeds*

from the sale of real estate held by the Kentucky agricultural experiment station shall be deposited to the credit of the University college of agriculture and shall only be expended to carry out the programs of the college of agriculture. This section does not authorize the sale of any real estate situated in the city of Lexington within the area bounded by Winslow Street or Euclid Avenue on the north, Rose Street on the east, Graham Avenue, Graham Avenue extended, and Washington Avenue on the south, and Limestone Street on the west.

(2) If the board of trustees of the University determines to lease real estate held for the use or benefit of the agricultural experiment station, the income from the lease shall be deposited to the credit of the University college of agriculture and shall only be expended to carry out the programs of the college of agriculture.

HB 597, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Closed package" means a package the contents of which cannot be seen or inspected when the package is closed.

(2) "Commissioner" means the commissioner of agriculture.

(3) "Experiment station" means the agricultural experiment station.

(4) "Grower" means a bona fide producer of strawberries, either by himself, tenant, sharecropper or hired person.

(5) *"Hay" means grass, alfalfa, clover, or other forage crop cut and dried as fodder.*

(6) "Not hand-picked" includes windfalls, drops and apples shaken or knocked from the tree.

(7) "Producer" means a person who cultivates or harvests hay or other agricultural products for sale.

SECTION 2. A NEW SECTION OF KRS 260.030 TO 260.040 IS CREATED TO READ AS FOLLOWS:

(1) The department of agriculture shall promote the sale of hay produced in the state by operating, maintaining, and administering a standard grading program for evaluating hay.

(2) The department shall, after consultation with the University of Kentucky, college of agriculture and associations actively involved in promoting the sale of hay within the state, promulgate standards for grading, marking, weighing, storing, transporting, and harvesting hay. These standards shall promote the sale of hay by standardizing the quality and quantity of the hay produced by participants in the department's standard grading program.

(3) The department shall undertake such measures as are appropriate to aid, encourage, foster, and promote the sale, development, and improvement of hay produced in the state which has been graded by a department standard grading program.

(4) The department shall employ persons necessary to carry out the provisions of this section.

(5) The department shall administer the provisions of this section and shall adopt administrative regulations to carry out the provisions of this section. The department shall conduct examinations, inspections, or hearings necessary for the proper administration of this standard grading program.

(6) The department shall collect a reasonable fee for grading services provided to a participant in the standard grading program. However, the fee shall not exceed ten dollars ($10.00) per sample graded by the

department's employes. All fees collected under the provisions of this section shall be credited to the department for use in carrying out the standard grading program.

SECTION 3. A NEW SECTION OF KRS 260.030 TO 260.040 IS CREATED TO READ AS FOLLOWS:

(1) The department of agriculture may promote the sale of raw agricultural products produced in the state by operating, maintaining, and administering a standard grading program for evaluating raw agricultural products.

(2) The department may, after consultation with the University of Kentucky, college of agriculture and associations actively involved in promoting the sale of agricultural products within the state, promulgate standards for grading, marking, weighing, storing, transporting, and harvesting these agricultural products. These standards shall promote the sale of agricultural products by standardizing the quality and quantity of the raw agricultural products produced by participants in the department's standard grading program.

(3) The department may undertake appropriate measures to aid, encourage, foster, and promote the sale, development, and improvement of raw agricultural products produced in the state which have been graded by a department standard grading program.

(4) The department may employ persons to carry out the provisions of this section.

(5) The department may administer the provisions of this section and adopt administrative regulations to carry out the provisions of this section. The department may conduct examinations, inspections, or hearings for the proper administration of this standard grading program.

(6) The department may collect a reasonable fee for grading services provided to a participant in the standard grading program. However, the fee shall not exceed thirty dollars ($30.00) per sample graded by the department's employes. All fees collected under the provisions of this section shall be credited to the department for use in carrying out the standard grading program.

The Committee on Cities reported **HB 504** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 504, AN ACT relating to board of aldermen officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83.460 is amended to read as follows:

The board of aldermen shall [~~annually~~] elect from its members a president for *a two (2) year term, which shall run concurrently with the term of office of the board which elects him* [~~one year~~], and shall elect from its members a president pro tem when the president is absent. The board of aldermen shall elect a clerk, and may elect a sergeant at arms.

Section 2. This Act shall become effective January 1, 1990.

The Committee on Business Organizations and Professions reported **HB 319** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT relating to the Kentucky athletic commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 229.250 is amended to read as follows:

(1) The first one hundred thousand dollars ($100,000) in fees and charges collected *each fiscal year* by the Kentucky athletic commission shall be paid into the state treasury and credited to a separate revolving or trust and agency fund account established for the purpose of *administering* [~~administrating~~] the provisions

of this chapter. The amount of fees and charges collected *each fiscal year* in excess of one hundred thousand dollars ($100,000) shall be deposited to the credit of the general fund. The cost and expenses of administering the provision of this chapter, including compensation to members of the board and its officers and employes shall be paid out of the state treasury upon warrants of the secretary of the finance and administration cabinet according to law, provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the revolving or trust and agency fund account, of that commission. *Any unexpended funds remaining in the trust and agency fund account of the Kentucky athletic commission shall not lapse, but shall be carried forward and be available for expenditure in the following fiscal year* [~~, except that, in fiscal year 1984-85 such costs shall not exceed the fees and other charges collected by the commission and available in the revolving or trust and agency account plus any funds which are appropriated to the commission under the provisions of Acts Chapter 418 of the 1984 session of the Kentucky general assembly~~].

(2) All fees and charges collected by the Kentucky athletic commission, up to a maximum of one hundred thousand dollars ($100,000) *each fiscal year, plus any unexpended funds brought forward from prior years,* shall be available for the administration of the provisions of this chapter, and for no other purpose.

The Committee on Health and Welfare reported **HB 480** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 480, AN ACT relating to medicaid reimbursement of non-steroidal anti-inflammatory drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

All non-steroidal, anti-inflammatory drugs which have been approved by the United States food and drug administration shall be included on the Kentucky medical assistance drug formulary of the cabinet for human resources.

The Committee on Health and Welfare reported **HB 576**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 576, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.377 is amended to read as follows:

(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of such application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employe of or who furnishes professional counsel or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, *licensed hospice,* medical society, or association affiliated with the American medical association, American podiatry association, American dental association, American osteopathic association or the American hospital association, or a medical care foundation affiliated with such a medical society or association, or governmental or quasi-governmental agency designated to review and evaluate the health care acts of other health care personnel. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any such health services organization.

(2) The proceedings, records, opinions, conclusions and recommendations of any committee, board, commission, professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city. This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.

(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document or record which is subject to discovery independently of the proceedings of the committee, board, commission, professional standards review organization or other entity to which subsection (1) of this section refers.

(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any committee, board, commission, professional standards review organization before which such evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document or record described in subsection (3) of this section or as to any information within his own knowledge except as provided in subsection (5) of this section.

(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of such proceeding.

(6) In any action in which the denial of staff privileges by any health care entity shall be in issue, agents, employees or other representatives of a health care entity may with the consent of such health care entity testify concerning any evidence presented in proceedings related to the entity's denial of such staff privileges.

(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any committee, board, commission, professional standards review organization, or other entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of any committee, board, commission, professional standards review organization, or other entity.

The Committee Amendment No. 1 to **HB 576** is as follows:

Amend printed copy of **HB 576** on page 1, line 12 by inserting in front of the words "medical society" the following words: "*licensed home health agency,*"

The Committee on State Government reported **HB 291**, **HJR 28** with Committee Substitute and Committee Amendment attached thereto, **HCR 48**, and **HR 72** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 291. AN ACT relating to the corrections cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

As soon as any person is convicted of, or pleads guilty to the commission of a felony offense, the Commonwealth shall assume the financial responsibility for his further incarceration in jail for said offense. The date of the verdict or plea shall be the determining factor.

Section 2. KRS 431.215 is amended to read as follows:

[~~(1)~~] If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

[~~(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the state treasury a fee per day beginning on the fifth day following the day on which judgment was rendered and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.~~]

HJR 28. A JOINT RESOLUTION directing the Secretary of the Commerce Cabinet to include within all economic development program plans and activities, a commitment to give service priority to the economically disadvantaged.

WHEREAS, economically disadvantaged persons, in order to become fully self sufficient, need special attention from governmental policy makers when economic development programs are designed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Commerce Cabinet and any other state agency administrator charged with administering economic development programs, the federal Job Training and Partnership Act, the federal Carl Perkins' Vocational Act, and the federal Community Development Block Grant Plan, are hereby required to include within all such program plans and activities, an affirmative commitment to give service priority to the economically disadvantaged, especially the Adult Aid to Families with Dependent Children recipients.

The Committee Substitute to **HJR 28** is as follows:

HJR 28. A JOINT RESOLUTION directing the Secretary of the Commerce Cabinet to include within all economic development program plans and activities, a commitment to give service priority to the economically disadvantaged.

WHEREAS, economically disadvantaged persons, in order to become fully self sufficient, need special attention from governmental policy makers when economic development programs are designed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Commerce Cabinet and any other state agency administrator charged with administering economic development programs, the federal Job Training and Partnership Act, the federal Carl Perkins' Vocational Act, and the federal Community Development Block Grant Plan, are hereby requested to include within all such program plans and activities, an affirmative commitment to give service priority to the economically disadvantaged, especially the Adult Aid to Families with Dependent Children recipients.

Section 2. That the Secretary of the Commerce Cabinet, in consultation with the Cabinet for Human Resources, is hereby requested to report to the Legislative Research Commission by July 1, 1989, on any progress made in implementing the provisons of Section 1 of this Resolution.

The Committee Title Amendment to **HJR 28** is as follows:

Amend printed copy of **HJR 28** by deleting the word "directing" and inserting in lieu thereof the word "requesting".

HCR 48. A CONCURRENT RESOLUTION relating to international trade.

WHEREAS, the internationalization of the domestic economy has prompted many state governments to become very active in international trade promotion and economic development; and

WHEREAS, the Commonwealth of Kentucky has been and continues to be deeply involved in international trade promotion and development; and

WHEREAS, a worsening foreign trade deficit and the loss of domestic industries to foreign markets has raised serious questions as to how Kentucky producers and businesses may become more competitive in foreign markets; and

WHEREAS, it is state policy to promote the general welfare and to increase job opportunities through stimulating the expansion of domestic and international markets for Kentucky products and services; and

WHEREAS, there is a recognized need by members of the Kentucky General Assembly to become better informed about international trade issues affecting Kentucky, and to thoroughly examine state programs designed to address these issues; and

WHEREAS, a major recommendation of the special task force on international trade and development during the 1986-87 interim requested the establishment of a legislative mechanism to effectively deal with international trade and economic development issues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to fully examine the major foreign trade issues affecting Kentucky producers and businesses. Furthermore, the Commission is directed to examine and study current state programs geared toward promoting investments in Kentucky and attracting domestic businesses and producers to international markets.

Section 2. That the Commission shall appoint a special task force on international trade and development to assist in the conduct of this study. The task force shall be comprised of six (6) members of the Senate and nine (9) members of the House of Representatives. Co-chairpersons shall be selected from those appointed.

Section 3. That the Kentucky Commerce Cabinet and other agencies of state government involved in foreign trade programs be directed to cooperate with the task force.

Section 4. That the task force shall report its findings and any recommendations to the Commission on or before October 31, 1989.

Section 5. Staff services to be utilized in this study are estimated to cost $20,000 and are to be provided by the Commission from its regular budget, subject to the limitations and other research responsibilities of the Commission.

HR 72. A RESOLUTION requesting that a special committee be established to study the Kentucky teachers' retirement system.

WHEREAS, our retired teachers have provided a tremendous service to the State of Kentucky and its citizenry; and

WHEREAS, many of our retired teachers dedicated numerous years of their lives, at low salaries, educating our youth; and

WHEREAS, many of our retired teachers continue to experience economic hardships as a result of these low salaries and the inflation in our economy in the last decade;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission be requested to establish a special committee to study the Kentucky teachers' retirement system.

Section 2. Membership of the committee shall comprise the following: two (2) members of the interim joint committee on education; two (2) members of the interim joint committee on appropriations and revenue; two (2) members of the interim joint committee on banking and insurance; and two (2) elected leaders of the Kentucky retired teachers' membership. The chairman of the committee shall be elected by the membership at the first meeting which shall be called by the director of the Legislative Research Commission.

Section 3. The committee shall report its findings and recommendations to the Legislative Research

Commission not later than December 1, 1990.

Section 4. Staff services to be utilized by the committee are estimated to cost $10,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

Calendar

HB 538, **HB 540**, **HB 468**, **HB 309**, **HB 349**, **HB 392**, and **HB 400** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 526, **HB 537**, **HB 539**, and **HJR 57** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 203, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved the adoption of Committee Substitute to **HB 203**. Agreed.

Representative Cline moved that **HB 203**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 11, 1988 roll call on **HB 203** - Appendix A.)

HB 203, by way of Committee Substitute, was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 203**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 300, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Substitute to **HB 300**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 300**. Agreed.

Representative Donnermeyer moved that **HB 300**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 60, Nays 20. (See February 11, 1988 roll call on **HB 300** - Appendix A.)

HB 300, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 300**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 533 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved that **HB 533** be passed.

Representative Robinson moved that the rules be suspended to allow consideration of an amendment to **HB 533**.

On the roll call the vote was yeas 35-Ackerson, Adams, Altman, Ark, Arnold, Ballard, M. Brown, Burch, Callahan, Casebier, Castleman, Cyrus, Ford, Geveden, Gray, Guenthner, J. Harper, Hoover, Johnson, Layman, Mason, McElroy, Napier, Noland, Northup, Overstreet, Reinhardt, Robinson, Seum, Siler, Strong, Todd, Turner, Walker, White. Nays 31-Barrows, Blevins, Bronger, L. Clark, Clarke, Crupper, Curd, Deskins, Donnermeyer, Farrow, Freibert, Hatcher, Heleringer, Hourigan, R. Jones, T. Jones, Lear, LeMaster, Long, Lundergan, Lyne, Maggard, McBee, Moberly, Nett, Noe, Pritchett, Rapier, Ridley, Riner, Yates.

The motion that the rules be suspended was rejected.

On the roll call the vote was: Yeas 58, Nays 33. (See February 11, 1988 roll call on **HB 533** - Appendix A.)

HB 533 was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 533** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Introduction of Bills and Resolutions

HB 672, by Representative Gray: AN ACT relating to workers' compensation.

HB 673, by Representatives M. Brown and Adkins: AN ACT relating to surface and underground mining.

HB 674, by Representatives Geveden and Stumbo: AN ACT relating to evidence.

HB 675, by Representatives Arnold, Lundergan and Strong: AN ACT relating to insurance.

HB 676, by Representatives Arnold, Strong and Lundergan: AN ACT relating to investments by insurers.

HCR 92, by Representatives Gray and Adkins: A CONCURRENT RESOLUTION petitioning the Congress of the United States to prohibit the reduction of private pension benefits by benefits received from state workers' compensation programs.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 463**, **HB 485**, **HB 503**.

Counties and Special Districts: **HB 486**.

Banking and Insurance: **HB 652**.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 429** with Committee Substitute attached thereto, **HB 430** with Committee Substitute attached thereto, **HB 432** with Committee Substitute and Committee Amendment attached thereto, **HB 547** with Committee Amendment attached thereto, **HCR 69**, and **SB 169** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 429, AN ACT relating to solid waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) If the private sector undertakes any of the solid waste management functions of a county, multi-county area, or a waste management district, as provided for in the solid waste management plan requirements of KRS Chapters 109 and 224, the functions undertaken shall be construed to be essential government services rendered by the private sector in lieu of a governmental unit.

(2) For the period of time that any solid waste management function is undertaken by the private sector pursuant to a solid waste management plan, the private sector shall have the exclusive right to undertake that function.

(3) In order that the solid waste management functions undertaken by the private sector properly conform to the state and local solid waste management policies and provisions set out in KRS Chapters 109 and 224 as implemented by the solid waste management plans, the exclusive right conferred by subsection (2) of this section shall be conditioned upon compliance with all state and local laws and regulations in effect when that right is first acquired and as amended.

The Committee Substitute to **HB 429** is as follows:

HB 429, AN ACT relating to solid waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the cabinet and notice of the application for a waste site or facility has been published, *as provided for in subsections (3) and (4) of this section,* at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste site or facility. The publication shall take place after the cabinet has made a preliminary determination of the application.

(2) *For permit applications to construct or operate a solid waste landfill or permit applications to modify an existing solid waste landfill, the cabinet shall, upon first receiving the applications require immediately the general public notice provided for in subsections (3) and (4)(a) to (d) of this section and upon determining that the application is administratively complete and at the time technical review begins, give special notice of the application to the county judge executive or mayor of an urban county government and members of the fiscal court or urban county council of the county or urban county government in which the landfill is or will be located. The special notice shall be in the form of an executive summary of the application. Also, at the time technical review begins, the cabinet shall again require the general public notice provided for in subsections (3) and (4)(a) to (d) of this section with the additional information that the executive summary shall be available from the office of the county judge executive or mayor of an urban county government. Upon request by a county judge executive or mayor of an urban county government or a member of fiscal court or an urban county council, the cabinet shall explain the application in a manner that is complete and expeditious. The cabinet shall notify the county judge executive or mayor of an urban county government if there will not be a public hearing on the applications. If there will be a public hearing the cabinet shall notify the county judge executive or mayor of an urban county government fifteen (15) days prior to the hearing date.*

(3) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(4)[~~(3)~~] The contents of the public notice of an application for a waste site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this cabinet; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste site or facility may file with the cabinet a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste site or facility is proposed.

(5)[~~(4)~~] No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. In the case of hazardous waste landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to subsection *(6)*[~~(5)~~] of this section.

(6)[~~(5)~~] The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste landfill or other site or facility for the land disposal of hazardous waste is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste landfill or other site or facility for the land disposal of hazardous waste within thirty (30) days after the hearing described in subsections *(4)*[~~(3)~~] and *(5)*[~~(4)~~] of this section. If no hearing is requested under the provisions of subsections *(4)*[~~(3)~~] and *(5)*[~~(4)~~] of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste landfill or other site or facility for the land disposal of hazardous waste within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste landfill or other site or facility for the land disposal of hazardous waste on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the landfill or other site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste landfill or other site or facility for the land disposal of hazardous waste to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste landfill or other site or facility for the land disposal of hazardous waste, the court, urban-county government, or governing body of an incorporated municipality shall so notify the cabinet in writing within ten (10) days. If a hazardous waste landfill or other site or facility for the land disposal of hazardous waste is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the cabinet if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste landfill or other site or facility for the land disposal of hazardous waste in the manner prescribed herein.

(7)[~~(6)~~] The provisions of subsection *(6)*[~~(5)~~] of this section shall not apply to a proposed regional integrated waste treatment and disposal demonstration facility.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet may, as a permit condition, require a manifest system.

Section 3. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet

shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855*(6)*[~~(5)~~], except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to *(5)*[~~(4)~~] and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855*(6)*[~~(5)~~]; in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any

state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

Section 4. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 and the provisions of KRS 224.896, 224.897 and 224.2203 to 224.2215 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580) and regulations issued pursuant thereto unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.866 but shall not be subject to the requirements of KRS 224.855*(6)*[~~(5)~~];

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.864, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350; and

(d) The cabinet may promulgate special waste regulations that recognize the distinct differences between the category of special wastes and other hazardous and solid wastes due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, record keeping, reporting, treatment, storage and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580) and regulations issued pursuant thereto.

HB 430, AN ACT relating to solid waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

A county may grant to a solid waste site or facility which serves the county solid waste planning area the exclusive right to dispose of solid waste generated outside of the planning area. A county may condition the grant upon the payment by the facility of a fee based upon the amount of solid waste received from outside *of the planning area. The fee shall be used for the following purposes:*

(1) A percentage of the fee shall be deposited to a fund which, with all accrued earnings, shall be used for the purpose of acquiring future solid waste landfill capacity to replace the capacity taken by the solid waste received from outside the planning area;

(2) A percentage of the fee shall be used to pay for the government expenses fairly apportioned to support the transportation and disposal of solid waste received from outside the planning area;

(3) A percentage of the fee shall be deposited to a fund which, with all accrued earnings, shall be held by the county to cover the expenses which may arise in response to facility post-closure environmental emergencies; and

(4) No less than five percent (5%) of the fee shall be paid to the cabinet quarterly to reimburse the cabinet for technical assistance in regulating solid waste received from outside the planning area.

The Committee Substitute to **HB 430** is as follows:

HB 430, AN ACT relating to solid waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.178 is amended to read as follows:

(1) The fiscal court of any county may license off-site waste management facilities located within the county with the imposition of a license fee at a percentage rate not to exceed two percent (2%) per annum of the gross receipts of such a waste management facility owned or operated by self-employed individuals, partnerships, or corporations. The proceeds from the license fee shall be used to defray the general revenue requirements of the county where the facility is located. For purposes of assessing the licensing fee provided for in this section, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal, or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.

(2) *(a) The fiscal court of a county or the urban county council of an urban county government may license a solid waste landfill located within the county or urban county area. The license fee may be set at not less than one cent (1) but no more than fifty cents (50) per ton of waste received by the landfill or set at up to five percent (5%) of gross receipts of the landfill.*

(b) The license fee as set may be increased by an amount up to one-quarter (1/4) of the base fee per ton or on gross receipts of waste received at the landfill which originates from outside of the planning area. For purposes of this section planning area shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multi-county area, or waste management district. However, before a fee differential may be imposed the county or urban county government shall demonstrate that the differential is reasonably related to additional government services which must be undertaken because of the landfilling of non-planning area waste. This demonstration may be made by showing an unplanned for reduction in waste disposal capacity and a need to provide for future disposal capacity or impacts on roads, litter control or emergency services.

(c) The proceeds from the license fee shall be used to defray the government services provided to the landfill, necessary clean-up operations or emergency responses related to operation of the landfill or transporting waste to the landfill, necessary maintenance, improvement or construction of roads, and for the general revenue requirements of the county or urban county government where the landfill is located.

(d) Five percent (5%) of the license fee shall be remitted annually to the natural resources and environmental protection cabinet until July 30, 1990. The cabinet shall use the amount received for state solid waste management activities. Ten percent (10%) shall be remitted annually in equal shares to all counties and urban county governments in the planning area served by the landfill from where the fees originated which shall be used for local solid waste planning and plan implementation. Counties or urban county governments desiring to impose the fee provided for herein are authorized to accept payments in lieu of the fee under duly-executed contracts between

the county and the permitted site or facility. The fee provided for in this subsection shall be in lieu of the provisions of subsection (1). Special waste, as defined in KRS 224.868, except for waste from sanitary wastewater treatment facilities shall be exempt from this Act.

(3) In the case of hazardous waste facilities involving land disposal, including a regional integrated waste treatment and disposal demonstration facility as defined in KRS Chapter 224, the rate levied under this section shall be not more than five percent (5%) per annum of the gross receipts and shall be calculated so as to produce sufficient revenue to compensate the county for any additional costs incurred by it from having a hazardous waste facility located in its jurisdiction, including, but not limited to the loss of ad valorem property tax revenues from the property on which the facility is located, the loss of ad valorem property tax revenues from abutting properties or other affected properties, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water to the extent that other monitoring data is not available, and other costs established as being associated with the facility and for which the county is not otherwise compensated.

SECTION 2. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) A county or urban county government may employ an enforcement representative to ensure compliance with applicable regulations of the cabinet relating to construction and operation of solid waste landfills. The local government representative shall possess at least minimum qualifications required of representatives of the cabinet performing similar functions.

(2) The cabinet shall promulgate regulations for local government inspection of solid waste landfills and enforcement procedures. The regulations shall include but not be limited to, requiring local enforcement representatives to report violations of state solid waste landfill laws and regulations immediately to the cabinet and requiring the cabinet to respond to the report within seventy-two (72) hours of its receipt.

(3) A county or urban county government which elects to implement a local inspection and enforcement program for solid waste landfills shall finance the program from the license fees provided for in this Act.

HB 432, AN ACT relating to county control of solid waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate rules and regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county*; and in the performance of the duties contracted for, third parties shall be performing state government functions delegated to the county.*

(2) *A county may, for the purpose of implementing the county solid waste management plan, establish regulatory controls for the solid waste management services in the planning area. These controls may include, but are not limited to, regulating the solid waste stream entering a solid waste site or facility in regards to daily volume, composition, and origin; and regulating the transportation of waste to a facility including means of transport, routes of transport, and hours of operation for receipt of waste at a facility. However, any regulatory controls established under this subsection shall be consistent with state and federal laws.*

(3) No sanitary landfill shall be acquired and constructed until the construction thereof has been approved in writing by the department. Planning for sanitary landfills shall be conducted only in accordance with the policy set forth in KRS 109.011(7).

(4)[~~(3)~~] Except as provided in KRS 109.062, no county or waste management district shall prohibit or

otherwise restrict the resource recovery of materials by:

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program; or

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program; or

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection; or

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection; or

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(5)[~~(4)~~] Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations.

(6)[~~(5)~~] Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(7)[~~(6)~~] Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(8)[~~(7)~~] Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.

(9)[~~(8)~~] Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(10)[~~(9)~~] Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.

(11)[~~(10)~~] In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations promulgated by the department on waste management pursuant to KRS Chapter 224.

(12)[~~(11)~~] No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(13)[~~(12)~~] Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

The Committee Substitute to **HB 432** is as follows:

HB 432, AN ACT relating to county control of solid waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky hereby finds, determines and declares, as follows:

(1) That Congress enacted the Hazardous and Solid Waste Amendments of 1984 establishing a clear bias against the disposal of hazardous waste in or on the land, and prohibits land disposal of a hazardous waste unless the Environmental Protection Agency determines that the prohibition is not necessary to protect human health and the environment and further recognized the environmental hazards of disposing of limited quantities of hazardous waste into solid waste landfills absent adequate design considerations.

(2) That in 1983 the U.S. Office of Technology Assessment published a comprehensive report which concluded that current land disposal technologies cannot guarantee the containment of hazardous wastes and protection of groundwater supplies.

(3) That a majority of Kentucky is underlaid by geology which is permeable and of little protection to groundwater resources from the contaminates, including hazardous waste, which can leach from a landfill disposal site.

(4) That Congress and the U.S. EPA have expressed the intention, in regards to environmental protection, that each state should be able to regulate to protect the environment in ways that are specific to the needs of each state and that each state does regulate the disposal of small amounts of hazardous waste differently.

(5) That waste flowing into solid waste landfills contains limited quantities of hazardous waste commingled with non-hazardous waste which produces a waste stream that is impossible to separate the hazardous components from non-hazardous contents.

(6) It is therefore the purpose of this Act to require all waste streams coming into Kentucky for land disposal to be demonstrated to be free of limited quantity hazardous waste components or that such waste streams be regulated in the same manner as Kentucky waste generators by being required to dispose of the waste in a landfill meeting strict design standards for groundwater protection.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any solid waste landfill in existence as of the effective date of this Act and accepting waste generated from outside of the boundaries of the Commonwealth shall demonstrate, within thirty (30) days of the effective date of this Act, to the cabinet that:

(a) The site or facility conforms to the restrictions contained in subsection (3) of this section; or

(b) The waste accepted for disposal from outside of the boundaries of the Commonwealth does not contain limited quantity generator hazardous waste.

(2) After the effective date of this Act, all new solid waste landfills, with the exception of inert or residual landfills, shall meet the design, operating, monitoring, and record-keeping requirements for contained landfills as defined in accordance with regulations promulgated by the cabinet. Special waste, as defined in KRS 224.868, except for waste from sanitary wastewater treatment facilities shall be exempt from this Act.

(3) Limited quantity generator hazardous waste as defined by the cabinet and its regulations shall not

be disposed of in a solid waste landfill unless the landfill meets the record-keeping, groundwater monitoring, leachate collection and control systems, and liner system requirements of the regulations promulgated by the cabinet for contained landfills.

(4) The cabinet shall implement procedures to assist limited quantity hazardous waste generators to dispose of such waste in compliance with the requirements of this Act. Such procedures shall include assistance in the development of limited quantity waste collection and disposal programs, and maintenance of a list of solid waste landfills which meet the requirements of this Act.

The Committee Title Amendment to **HB 432** is as follows:

Amend printed copy of **HB 432** delete "AN ACT relating to county control of solid waste disposal.";

And insert "AN ACT relating to solid waste."

HB 547, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.876 is amended to read as follows:

(1) The general assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the general assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The natural resources and environmental protection cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45.705 to 45.720 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the non-federal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (Public Law 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management

fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes" or waste oil. The assessment shall be reported and paid to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a report or return in such form as the revenue cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon said business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that the reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for said purposes. The assessment shall be charged against generators of hazardous waste until June 30, *1990* [~~1988~~], and after such date no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half (1/2) of the amount as would be assessed for off-site treatment and disposal except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.

(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents (2) per gallon initially, and shall increase by one cent (1) annually up to five cents (5) per gallon in 1983 and remain at five cents (5) thereafter if the waste is liquid, or two dollars and fifty cents ($2.50) per cubic yard if the waste is solid. Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet;

(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent (1) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid;

(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid; and

(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents (50) per cubic yard if the waste is solid.

(9) Except for waste brought into the state by a company affiliated with the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8)(a) to (d) of this section. The facility shall remit the assessment to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a return as the revenue cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the revenue cabinet may, from any information in its possession, make an estimate and issue an assessment against such generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount

of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the revenue cabinet, then, unless it is shown to the satisfaction of the revenue cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the revenue cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the revenue cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the revenue cabinet.

(13) There is hereby created within the state treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest bearing account. The revenue cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the state treasury shall be deposited in the hazardous waste management fund. When the state treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the state treasurer certifies to the revenue cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000).

(14) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out said duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(15) If any person, responsible for a release or threatened release of a hazardous substance, fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, then the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(16) If disposal activities have occurred at a hazardous waste site, then the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(17) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

The Committee Amendment No. 1 to **HB 547** is as follows:

Amend printed copy of **HB 547** on page 6, line 12, by inserting after the word "company" the first time it appears on line 12 the following: "*to an affiliated manufacturing facility of*";

And on page 6, line 12, by placing a bracket before "affiliated" and a bracket after "with" and striking through "affiliated with".

HCR 69. A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the water resource potential of the Licking River Basin and its tributaries in northern Kentucky.

WHEREAS, the necessity for flood control on the Licking River and its tributaries has long been of great concern to the citizens of northern Kentucky; and

WHEREAS, the citizens of northern Kentucky need to examine the potential of the Licking River Basin as an alternative source of water supply in anticipation of projected population growth in the northern Kentucky region, and as an additional source of potable water during periods of extreme pollution of the Ohio River; and

WHEREAS, the United States Army Corps of Engineers cannot commence a detailed evaluation of the Licking River Basin until late 1989; and

WHEREAS, the citizens of the northern Kentucky area should be afforded the opportunity to express their views in an organized and objective forum;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That there is hereby created the Licking River Basin Task Force. The task force shall advise and make recommendations to the Legislative Research Commission on all matters relating to the Licking River and its tributaries in northern Kentucky, including:

1. The necessity for flood control;

2. The need for alternate potable water supplies;

3. The rationale for one or more impoundments;

4. The potential need for recreational development in the region;

5. The feasibility of economic development projects which could benefit the area; and

6. The overall level and commitment of community support for such projects.

Section 2. That the task force be composed of twenty-one (21) members, including the chairperson of the task force, and that all task force members be appointed by the co-chairpersons of the Legislative Research Commission. Membership on the task force shall be three (3) members of the House of Representatives from House districts in the area, to include: the sixty-first House district, the sixty-second House district, the sixty-fourth House district, the sixty-eighth House district, the sixty-ninth House district and the seventieth House district; two (2) Senators from Senatorial districts in the area, to include: the eleventh Senatorial district, the eighteenth Senatorial district, the twenty-third Senatorial district, the twenty-sixth Senatorial district, the twenty-eighth Senatorial district and the thirtieth Senatorial district; one (1) county judge/executive of a county within each House district listed above; one (1) mayor of a city within each Senate district listed above; one (1) member of a water district board within the area comprised of the House districts listed above; one (1) member of a soil conservation district board within the area comprised of the House districts listed above; one (1) citizen member of the Northern Kentucky Area Development District and one (1) citizen member of the Buffalo Trace Area Development District.

Section 3. That the task force members be reimbursed for their actual expenses in attending meetings and the performance of other official duties.

Section 4. That the task force shall report its findings to the Legislative Research Commission by October 1, 1989.

Section 5. Staff services to be utilized in operation of the task force are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 169, AN ACT relating to hazardous waste and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the cabinet and notice of the application for a waste site or facility has been published at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste site or facility. The publication shall take place after the cabinet has made a preliminary determination of the application.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a waste site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this cabinet; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste site or facility may file with the cabinet a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste site or facility is proposed.

(4) No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. In the case of hazardous waste *incinerators*, landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to subsection (5) of this section.

(5) The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste within thirty (30) days after the hearing described in subsections (3) and (4) of this section. If no hearing is requested under the provisions of subsections (3) and (4) of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the *incinerator*, landfill or other site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste, the court, urban-county government, or governing body of an incorporated municipality shall so notify the cabinet in writing within ten (10) days. If a hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the cabinet if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste *incinerator*, landfill or other site or facility for the land disposal of hazardous waste in the manner prescribed herein.

(6) *The provisions of subsection (5) of this section shall not apply to:*

(a) A proposed regional integrated waste treatment and disposal demonstration facility and any on-site remedial action facility authorized pursuant to the Comprehensive Environmental Response Compensation and Liability Act as amended;

(b) An existing hazardous waste incinerator having all required permits or authorizations as of the effective date of this Act, provided however, that subsection (5) of this section shall apply to any incinerator unit proposed for construction at an existing facility for which construction commenced after the effective date of this Act and to proposed hazardous waste incinerators for which a permit application has been filed but has not been issued as of the effective date of this Act; and

(c) On-site incineration of hazardous waste by the generator of such waste at the site of the waste generation including waste generated at another facility owned and operated by that generator, or wholly owned subsidiary.

[~~The provisions of subsection (5) of this section shall not apply to a proposed regional integrated waste treatment and disposal demonstration facility.~~]

Section 2. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5)[~~, except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility~~]. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to (4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste *incinerators,* landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars

($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

Section 3. Whereas the need for proper control and review of disposal of radioactive and hazardous wastes as provided in this Act is a present need, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Motions, Petitions and Communications

Representative J. Harper moved the adoption of Legislative Citation No. 63. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Laura Boone for being a participant in the Bullitt County Close Up Program. Through this forum you have been able to be a part of your state legislature by meeting with your officials, having an opportunity to personally discuss issues concerning state government and observing the operations of the legislative branch.

The House of Representatives and Representative John Harper commend you for your involvement in this government and youth program. (Sponsored by Representative J. Harper)

Representative Hoover moved the adoption of Legislative Citation No. 61. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and recognizes Mike

Huffaker a member of the Monticello Volunteer Fire Department to the benevolent and courageous members, deep gratitude is expressed for the devotion and tireless commitment to protecting the health, safety and well-being of your fellow man. Throughout the years, you have generously given of your time, energy, and talent, often at great personal risk, to situations. Because of your speedy acts of compassion and bravery, many citizens continue to enjoy life and prosperity.

The Kentucky House of Representatives joins Representative Mae Hoover in saluting and applauding the Monticello Volunteer Fire Department. (Sponsored by Representative Hoover)

Representative Reinhardt moved the adoption of Legislative Citation No. 64. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Nick J. and Margaret Field Reinhardt for your devotion and dedication to each other in your fifty years of married bliss. The beauty of your marriage blooms in the smile of your children, Keith, Donald, Lynne, Jon David, Carol, Kenneth, Iris, Sherry, as well as that of your grandchildren and great grandchildren. This prestigious body commends you Margaret, and you, Nick, for the joy you have brought to your family and your community by being a shining example of the holy institution of matrimony. The House of Representatives joins your son, Representative Jon Reinhardt and all of your family, in wishing you a long life and many more years of matrimonial harmony. (Sponsored by Representative Reinhardt)

Representative L. Clark moved that the rules be suspended to reconsider the vote on **HB 339**.

On the roll call the vote was yeas 16-Arnold, Blevins, Callahan, L. Clark, Clarke, Cline, Cyrus, Donnermeyer, Gray, Hourigan, Kerr, Meyer, Priddy, Stumbo, Todd, Will. Nays 20-Allen, Barrows, Bronger, Farrow, Ford, Gedling, Guenthner, Handy, K. Harper, Hatcher, Long, McBee, Moberly, Napier, Noe, Northup, Robinson, Siler, Turner, Walker.

The motion that the rules be suspended to reconsider the vote on **HB 339** was rejected.

Representative O'Brien moved that **HB 354** and **HB 177** be reassigned to Appropriations and Revenue. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representative Cyrus; **HB 196**, Representative Blevins; **HB 203**, Representative Ackerson; **HB 204**, Representatives Curd, R. Smith; **HB 309**, Representative Northup; **HB 402**, Representative P. Richardson; **HB 421**, Representative Guenthner; **HB 453**, Representative Riner; **HB 458**, Representative Donnermeyer; **HB 480**, Representatives Ark, Ballard, Jackson, Seum; **HB 504**, Representatives Hatcher, Northup; **HB 533**, Representatives Yates, Siler, Worthington; **HB 610**, Representative Reinhardt; **HB 642**, Representative Callahan; **HB 661**, Representative Maggard.

The following members filed requests to have their names be withdrawn as co-sponsors of Bills and Resolutions:

HB 400, Representative Keith; **HB 550**, Representative Richards; **HCR 61**, Representative Northup.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 37**, by Representative Barrows:

Amend printed copy of **HB 37** on page 2, line 3, move the bracket before "~~(3)~~" to before the word "~~The~~", and remove the strike through from "~~(3)~~", and add the following after "(3)": *The superintendent of public instruction may delay the purchase of books due to insufficient funds, but purchases of books shall be from the current multiple list.*

Floor Amendment No. 1 to **HB 533**, by Representative Robinson:

Amend printed copy of **HB 533** on page 2, line 17, after the word "*classes*" by inserting the words: "*or to attend church services or church related activities*"

On page 3, line 12, after "*($500)*" by inserting the words: "*and shall be imprisoned for not less than seven (7) days in the county jail*"

On page 3, line 12, after the "." by inserting the following language:

"*(9) The department shall promulgate administrative regulations to implement the provisions of the Act which shall include as a minimum the following conditions:*

(a) A method for law enforcement officers to identify a person operating a vehicle under the provisions of this Section;

(b) Any information which serves to substantiate the need for a license, such information shall include but not be limited to the place of employment of the applicant, work hours, whether any other members of the household possesses a valid operator's license;

(c) The forms to be utilized by the court to make application for the occupational drivers license and the applicant's religious affiliation and place of church membership; and

(d) Any additional information the department determines to be necessary to prevent abuse of an occupational driver's license."

The Clerk announced the following meetings:

The Budget Review Subcommittee on General Government, February 16, 1988, 10:00 a.m.

The Committee on Labor and Industry, February 16, 1988, Room 104, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Tuesday, February 16, 1988.

The motion that the House adjourn was adopted by voice vote.

TUESDAY, FEBRUARY 16, 1988

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 11, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 178**, **SB 180**, **SB 185** and **HB 31**.

Introduction of Bills and Resolutions

HB 677, by Representatives Gedling and M. Brown: AN ACT relating to planning and zoning.

HB 678, by Representative Barrows: AN ACT relating to education.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 663**, **HB 665**, **HB 666**.

Banking and Insurance: **HB 669**, **HB 675**, **HB 676**.

Business Organizations and Professions: **HB 670**.

Cities: **HB 667**, **HB 668**, **SB 175**.

Education: **HB 661**.

Health and Welfare: **HB 671**.

Judiciary-Civil: **HB 664**.

Judiciary-Criminal: **HB 674**.

Labor and Industry: **HB 672**.

Natural Resources and Environment: **HB 673**.

State Government: **HCR 92**, **HB 662**.

The Committee on Rules reported **HB 522**, **HB 497**, **HB 349**, **HB 392**, **HB 538** and **HB 540** have been posted for passage in Orders of the Day, February 17, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular

Orders of the Day, February 17, 1988: **HB 223**, **HB 434**, **HB 544**, **HB 526**, **HB 537**, **HB 539**, **HJR 57**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 433**, **HB 455**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 616**.

Health and Welfare: **HB 592**, **HB 530**, **HB 555**, **HB 588**, SB 88.

Natural Resources and Environment: **HB 608**, **HB 656**, **HB 657**.

The Clerk announced that the following Bills have been withdrawn from consideration: **HB 428**, **HB 431**.

Calendar

HB 230, **HB 504**, **HB 319**, **HB 480**, **HB 291**, **HJR 28**, **HCR 48**, **HR 72**, **HB 429**, **HB 430**, **HB 432**, **HB 547**, **HCR 69** and **SB 169** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 450, **HB 597** and **HB 576** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SCR 1** and **SB 47** had been examined and found correctly enrolled. Said Bill and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:09 p.m.)

Orders of the Day

HB 196, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Committee Substitute to **HB 196**. Agreed.

Representative Yates moved that **HB 196**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 16, 1988 roll call on **HB 196** - Appendix A.)

HB 196, by way of Committee Substitute, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 196**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 317** be passed.

On the roll call the vote was: Yeas 42, Nays 45. (See February 16, 1988 roll call on **HB 317** - Appendix A.)

HB 317 was defeated.

HB 397, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Amendment No. 1 to **HB 397**. Agreed.

Representative A. Jones moved that **HB 397**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See February 16, 1988 roll call on **HB 397** - Appendix A.)

HB 397, as amended, was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 397**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 418, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HB 418**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 2 to **HB 418**. Agreed.

Representative Scorsone moved that **HB 418**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 11. (See February 16, 1988 roll call on **HB 418** - Appendix A.)

HB 418, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 418**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 437, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 437**. Agreed.

Representative Lear moved that **HB 437**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 16, 1988 roll call on **HB 437** - Appendix A.)

HB 437, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 437**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 8, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to **SB 8**. Agreed.

Representative Johnson moved the adoption of the Committee Amendment No. 2 to **SB 8**. Agreed.

Representative Johnson moved the adoption of the Committee Amendment No. 3 to **SB 8**. Agreed.

Representative Johnson moved that **SB 8**, as amended, be passed.

Representative Barrows moved that **SB 8**, as amended, be laid on the Clerk's Desk. Rejected.

On the roll call the vote was: Yeas 97, Nays 0. (See February 16, 1988 roll call on **SB 8** - Appendix A.)

SB 8, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 8**, as amended, passed be reconsidered and said motion be placed on the table. Agreed.

SB 112 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved that **SB 112** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 16, 1988 roll call on **SB 112** - Appendix A.)

SB 112 was passed and the title agreed to.

Representative Handy moved that the vote by which **SB 112** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 175** is as follows:

Amend printed copy of **HB 175** as follows:

On line 5, after the period, by inserting:

"Such a claim for loss of use of a motor vehicle shall be limited to reasonable and necessary expenses for the time necessary to repair or replace the motor vehicle."

Representative LeMaster moved that the House concur in the Senate Amendment No. 1 to **HB 175**. Agreed.

Representative LeMaster moved that **HB 175**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 4. (See February 16, 1988 roll call on **HB 175** - Appendix

A.)

HB 175, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 175**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 202** is as follows:

Amend printed copy of **HB 202** as follows:

On page 3, line 15, add to the end of the line: "*This provision shall not be applicable to a county containing a city of the first class or to an urban-county government.*"

Representative Mason moved that the House refuse to concur in the Senate Amendment No. 1 to **HB 202**. Agreed.

Motions, Petitions and Communications

Representative L. Clark moved that the rules be suspended to introduce and act upon a Resolution.

HR 93, by Representative L. Clark: A RESOLUTION adjourning the House of Representatives in honor of Violet Clark's birthday.

Representative L. Clark moved the adoption of the following **HR 93**:

HR 93, A RESOLUTION adjourning the House of Representatives in honor of Violet Clark's birthday.

WHEREAS, Violet Clark is the devoted wife of Representative Larry Clark; and

WHEREAS, Violet Clark is the loving mother of Joy and Tim Clark; and

WHEREAS, Violet Clark is celebrating her birthday on February 16, 1988;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives extends warmest birthday wishes to Violet Clark.

Section 2. That when the House of Representatives adjourns this day, Tuesday, February 16, 1988, it does so in honor of Violet Clark.

Section 3. That the Clerk of the House of Representatives is directed to send a copy of this resolution to Violet Clark, 5913 Whispering Hills Boulevard, Louisville, Kentucky 40219.

HR 93 was adopted by voice vote.

Representative Clarke moved that **HB 217** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 679, by Representative Meyer: AN ACT relating to unemployment insurance.

HB 680, by Representative B. Richardson: AN ACT relating to limitation of actions.

HB 681, by Representative Burch: AN ACT relating to alcoholic beverage control.

HB 682, by Representatives Lundergan, Bronger, M. Brown, Johnson, P. Clark, A. Jones, Cline, Gray, Meyer, Blevins, Crupper, L. Clark, McBee, Noland, LeMaster and Seum: AN ACT relating to the funding of public safety employes and services, and declaring an emergency.

HB 683, by Representative Johnson: AN ACT relating to coal mining regulations.

HB 684, by Representative Clarke: AN ACT relating to nature preserves and declaring an emergency.

HB 685, by Representative Freibert: AN ACT relating to revenue and taxation.

HB 686, by Representative Barrows: AN ACT relating to the collection of data concerning real property transfers.

HB 687, by Representatives Cyrus, Jackson, Adkins and Cline: AN ACT relating to overdimensional permits.

HB 688, by Representatives Strong, Deskins, Bronger, L. Clark, Noe, Preston, Gedling, Maggard, Altman, Napier, Geveden, Robinson, Adams, Adkins, Layman, Noland, White, Lefevers, Arnold, Mason, Stumbo, Blevins, Siler, Turner, Todd, Ford, Heleringer, Lile, J. Brown, Walker and Little: AN ACT relating to workers' compensation.

HJR 94, by Representative Donnermeyer: A JOINT RESOLUTION recognizing homelessness as a statewide problem and directing all appropriate state agencies to review their priority setting processes, resource allocations and programs and services to insure that the needs of the homeless are met.

HR 95, by Representative Gedling: A RESOLUTION requesting that the State Fair Board encourage Kentucky vendors to participate in trade shows held in the State Fair Board facilities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 520**, **HB 600**.

State Government: **HB 583**, **HB 636**, **HB 594**, **HB 641**, **HB 658**, **SB 20**, **HB 557**, **HB 637**, **HB 643**, **HB 221**, **HB 305**, **HB 371**, **HB 419**, **HB 458**, **HB 510**, **HB 534**, **HB 549**, **HB 599**, **SB 35**.

Business Organizations and Professions: **HB 642**, **HB 653**.

Report of Committees

The Committee on Banking and Insurance reported **HB 462**, with Committee Amendment attached thereto, **HB 571**, and **HB 652**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 462, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

(1) Annual statement:	
(a) Filing each year	$100.00
(b) Filing additional or supplemental statement in same year	100.00
(2) For filing charter documents:	
(a) Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed	100.00
(b) Amended charter documents, bylaws and records of organization, or certified copies thereof	50.00
(3) Certificate of authority:	
(a) Issuance of original certificate	500.00
(b) Amending, to add a line	50.00
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers: Filing application for solicitation permit and issuance of such permit	200.00
(5) Self insurer:	
(a) Application to become self-insurer under Subtitle 39	200.00
(b) Annual review of status under Subtitle 39	100.00
(c) Notification of self-insurance program under Subtitle 32	50.00
(6) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, biennial	40.00
(b) License for industrial life insurer, only, biennial	40.00
(c) License for other insurance, each insurer represented, biennial	40.00
(d) Limited license as travel insurance agent, biennial	40.00
(e) Temporary license as property and casualty agent	20.00
(f) Temporary license as life and health agent	20.00
(g) Nonresident agent, biennial	50.00
(7) Surplus lines broker, managing general agent, biennial	100.00
(8) Solicitor's license, biennial	40.00

(9) Adjuster's license, biennial	50.00
(a) Temporary license as apprentice adjuster	25.00
(b) Administrator's license, biennial	50.00
(10) Consultant's license, biennial	50.00
(11) Agent's licenses, fraternal benefit societies, Subtitle 32 corporations, health maintenance organizations, prepaid dental plan organizations, biennial	40.00
(12) Examination, for or in connection with licensing of agents, solicitors, adjusters, and consultants	50.00
(13) Annual registration fee of unauthorized insurer	500.00
(14) Advisory organizations:	
(a) Application for license	500.00
(b) Annual renewal	100.00
(15) Rate and form filings:	
(a) Rate level revision filing in a non-competitive market	100.00
(b) Other rate and form filings	5.00
(16) Premium finance company license issuance and annual renewal	100.00
(17) Cost of administering Subtitle 32 per membership contract in force on December 31st of each year, except the health insurance contract or contracts for state employes as authorized by KRS 18A.225	.10
(18) *Filing agent and solicitor continuing education courses for approval*	*5.00 per hour of continuing education credit; 10.00 minimum*
(19) Miscellaneous services:	
(a) Filing other documents, each	5.00
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	5.00
(c) For copies of any document on file with the commissioner, per page	.50
(d) Copy of annual statements, per page	1.00

Section 2. KRS 304.9-295 is amended to read as follows:

(1) *This section shall apply to resident natural persons licensed as agents or solicitors for the following kinds of insurance: life, health, property, or casualty.*

(2) This section shall not apply to:

(a) Persons holding licenses for which no examination is required by KRS 304.9-170 except that persons exempted from examination by KRS 304.9-170(1) and (2) shall be subject to this section;

(b) Persons holding limited or restricted licenses, as exempted by the commissioner; or

(c) Persons not licensed for one (1) full year prior to the end of a continuing education biennium as described in subsection (3) of this section.

(3) The licensees specified in subsection (1) of this section and not exempt under subsection (2) of this section who hold licenses issued on or after July 1, 1988, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses during each continuing education biennium. A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.

(4) Only continuing education courses approved by the commissioner may be used to satisfy the continuing education requirement of subsection (3) of this section.

(a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:

1. Any part of the life underwriter training council life course curriculum;

2. Any part of the life underwriter training council health course curriculum;

3. Any part of the american college chartered life underwriter diploma curriculum;

4. Any part of the american institute for property and liability underwriters' chartered property and casualty underwriter profession designation program;

5. Any part of the insurance institute of america's programs;

6. Any part of the certified insurance counselor program;

7. Any insurance related course taught at an accredited college or university, if such course is approved by the commissioner;

8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;

9. Any correspondence course approved by the commissioner.

(b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved pursuant to this subsection.

(c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to persons who do not successfully complete such written examination.

(d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in subtitle 4 of KRS Chapter 304.

(5) A person teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a person taking and satisfactorily completing such course.

(6) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.

(7) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (3) of this section may be completed, but such extension of time shall not exceed two (2) years. What constitutes good cause for such extension of time rests within the discretion of the commissioner.

(8) Every person subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by such person. Such certification shall be signed by or on behalf of the organization sponsoring the continuing education course. Such certification shall be on a form prescribed by the commissioner.

(9) The license of any person failing to comply with the continuing education requirement of subsection (3) of this section and who has not been granted an extension of time to comply pursuant to subsection (7) of this section shall be cancelled and promptly surrendered to the commissioner without demand.

(10) The license of any person subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed in lieu thereof, or both, pursuant to KRS 304.9-440 if such person submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.

[~~This section shall apply to resident persons licensed to engage in the sale of the following types of insurance: life insurance, annuity contracts, variable annuity contracts and variable life insurance, sickness, accident and health insurance, all lines of property and casualty insurance, and all other lines of insurance for which an examination is required for licensing.~~

~~(2) This section shall not apply to those natural persons:~~

~~(a) Who hold resident licenses for any kind of insurance for which an examination is not required by KRS 304.9-170; or~~

~~(b) Who hold a limited or restricted license as the commissioner may exempt.~~

~~(3) Resident persons licensed to sell insurance and not exempt under subsection (2) of this section who hold a license issued for life only, health only, life and health insurance, property only, casualty only, property and casualty insurance, or any combination thereof, issued subsequent to July 1, 1987, shall, during each of the first two (2) twenty-four (24) month periods following issuance of the license, satisfactorily complete courses or programs of instruction or attend seminars equivalent to a minimum of twenty-four (24) classroom hours of instruction for each twenty-four (24) month period, with a maximum of forty-eight (48) accumulated classroom hours for the forty-eight (48) month period.~~

~~(4) The courses or programs or instruction successfully completed which shall be deemed to meet the commissioner's standards for continuing educational requirements and the number of classroom hours for which they are equivalent are:~~

~~(a) Any part of the Life Underwriter Training Council life course curriculum~~..........twelve (12) hours

(b) Any part of the Life Underwriter Training Council health course curriculum...........six (6) hours

(c) Any part of the American College "CLU" diploma curriculum....................twelve (12) hours

(d) Any part of the American Institute for Property and Liability Underwriters' chartered property casualty underwriter (CPCU) profession designation program..............................twelve (12) hours

(e) Any part of the Insurance Institute of America's programs.......................twelve (12) hours

(f) Any part of the certified insurance counselor program...........................twelve (12) hours

(g) Any insurance related course approved by the commissioner taught by an accredited college or university..six (6) hours

(h) Any course or program of instruction or seminar developed and/or sponsored by any authorized insurer, recognized agents association or insurance trade association or any independent program of instruction, shall, subject to the approval of the commissioner, qualify for the equivalency of the number of classroom hours assigned thereto by the commissioner; and

(i) Any correspondence course approved by the commissioner shall qualify for the equivalency of the number of classroom hours assigned thereto by the commissioner.

(5) A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such courses, seminar or program.

(6) Excess credit hours accumulated during any two (2) year period may be carried forward.

(7) For good cause shown, the commissioner may grant an extension of time during which the requirements imposed by subsection (3) of this section may be completed, but such extension of time shall not exceed the period of two (2) years.

(8) Every person subject to this section shall furnish, in a form satisfactory to the commissioner, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. Such certification shall be executed by or on behalf of the sponsoring organization.

(9) Any person failing to meet the requirements imposed upon him by this section and who has not been granted an extension of time within which to comply pursuant to subsection (7) of this section, or who has submitted to the commissioner a false or fraudulent certificate of compliance therewith shall, after a hearing thereon, which hearing may be waived by such person, be subjected to the suspension of all licenses issued for any kind or kinds of insurance; and no further license shall be issued to such person for any kind or kinds of insurance until such time as such person shall have demonstrated to the satisfaction of the commissioner that he has complied with all the requirements of this section and all other laws applicable thereto.]

The Committee Amendment No. 1 to **HB 462** is as follows:

Amend printed copy of **HB 462** on page 5, line 7 after "*(24)*" by inserting "*classroom*".

HB 571. AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.42-030 is amended to read as follows:

(1) This subtitle *shall provide coverage for the policies and contracts specified in subsection (2) of this section:*

(a) To persons who, regardless of where they reside (except for non-resident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under paragraph (b) of this subsection; and

(b) To persons who are the owners of or certificate holders under such policies or contracts; or, in the case of unallocated annuity contracts, to the persons who are the contract holders, and who:

1. Are residents; or

2. Are not residents, but only under the following conditions:

a. The insurers which issued such policies or contracts are domiciled in this state;

b. Such insurers never held a certificate of authority in the states in which such persons reside;

c. Such states have associations similar to the association created by this subtitle; and

d. Such persons are not eligible for coverage by such associations.

(2) (a) This subtitle shall provide coverage to the persons specified in subsection (1) of this section for direct, non-group life, health, annuity, and supplemental policies or contracts, for certificates issued under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this subtitle. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, structured settlement agreements, lottery contracts, and any immediate or deferred annuity contracts.

(b) This subtitle shall not provide coverage for:

1. Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

2. Any policy or contract of reinsurance, unless assumption certificates have been issued;

3. Any portion of a policy or contract to the extent that the rate of interest on which it is based:

a. Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to such policy or contract, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for such lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and

b. On and after the date on which the association becomes obligated with respect to such policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

4. Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employes or members to the extent that such plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or similar entity under:

a. A multiple employer welfare arrangement as defined in 29 U.S.C. section 1144;

b. A minimum premium group insurance plan;

c. A stop-loss group insurance plan; or

d. An administrative services only contract;

5. Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of such policy or contract;

6. Any policy or contract issued in this state by a member insurer at a time when it did not have a certificate of authority to issue such policy or contract in this state;

7. Any unallocated annuity contract issued to an employe benefit plan protected under the federal pension benefit guaranty corporation; and

8. Any portion of any unallocated annuity contract which is not issued to or in connection with a specific employe, union, or association of natural persons benefit plan or a government lottery.

(3) The benefits for which the association may become liable shall in no event exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not

an impaired or insolvent insurer; or

(b) 1. With respect to any one life, regardless of the number of policies or contracts:

a. Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) net cash surrender and net cash withdrawal values for life insurance;

b. One hundred thousand dollars ($100,000) in health insurance benefits, including any net cash surrender and net cash withdrawal values;

c. One hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

2. With respect to each individual participating in a governmental retirement plan established under 26U.S.C. sections 401(k), 403(b), or 457 covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, one hundred thousand dollars ($100,000) in present value annuity benefits, including net cash surrender and net cash withdrawal values;

but in no event shall the association be liable to expend more than three hundred thousand dollars ($300,000) in the aggregate with respect to any one individual under subparagraphs 1. and 2. of this paragraph;

3. With respect to any one contract holder covered by any unallocated annuity contract not included in subparagraph 2. of this paragraph, five million dollars ($5,000,000) in benefits, irrespective of the number of such contracts held by that contract holder [~~shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at the time such policies or contracts were sold.~~

~~(2) This subtitle shall not apply to:~~

~~(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;~~

~~(b) That portion or part of any policy or contract under which the risk is borne by the policyholder;~~

~~(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;~~

~~(d) Any policy or contract issued by a licensed nonprofit hospital, medical-surgical, dental and health service corporation, as defined by subtitle 32 of KRS Chapter 304 and any policy or contract issued by a licensed nonprofit health maintenance organization as defined by subtitle 38 of KRS Chapter 304; or~~

~~(e) Health insurance where such insurance is written by a member of the Kentucky Insurance Guaranty Association~~].

Section 2. KRS 304.42-050 is amended to read as follows:

As used in this subtitle:

(1) "Account" means either of the *two (2)* [~~three (3)~~] accounts created under KRS 304.42-060.

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060.

(3) "Commissioner" means the commissioner of insurance of this state.

(4) "Contractual obligation" means any obligation under *a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under KRS 304.42-030* [~~covered~~

~~policies~~].

(5) "Covered policy" means any policy or contract within the scope of KRS 304.42-030.

(6) "Impaired insurer" means a member insurer *which, after June 17, 1978, is not an insolvent insurer and:*

(a) Is deemed by the commissioner [~~after June 17, 1978~~] to be potentially unable to fulfill its contractual obligations and not an insolvent insurer*; or*

(b) Is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(7) "Insolvent insurer" means a member insurer which after June 17, 1978, [~~becomes insolvent and~~] is placed under a final order of liquidation[~~, rehabilitation or conservation~~] by a court of competent jurisdiction *with a finding of insolvency.*

(8) "Member insurer" means any *insurer authorized to transact in this state any kind of insurance for which coverage is provided under KRS 304.42.030, and includes any insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:*

(a) A non-profit hospital, medical-surgical, dental, and health service corporation, as defined by subtitle 32 of KRS Chapter 304;

(b) A health maintenance organization;

(c) A fraternal benefit society;

(d) A mandatory state pooling plan;

(e) An assessment or cooperative insurer or any entity that operates on an assessment basis;

(f) An insurance exchange;

(g) Any entity similar to the above; or

(h) Health insurance where such insurance is written by a member of the Kentucky insurance guaranty association [~~person licensed to transact in this state any kind of insurance to which this subtitle applies under KRS 304.42-030~~].

(9) *"Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto.*

(10) "Premiums" means *amounts received on covered policies or contracts less premiums, considerations, and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under KRS 304.42.030(2) except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3., relating to interest limitations and KRS 304.42-030(3)(b) relating to limitations with respect to any one individual, any one participant, and any one contract holder; but "premiums" shall not include any premiums in excess of five million dollars ($5,000,000) on any unallocated annuity contract not issued under a governmental retirement plan established under 26 U.S.C. sections 401(k), 403(b), or 457* [~~direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers~~].

(11)[~~(10)~~] "Person" means any individual, corporation, partnership, association or voluntary organization.

(12)[~~(11)~~] "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed. *A person may be a*

resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

(13) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

(14) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

Section 3. KRS 304.42-060 is amended to read as follows:

[~~(1)~~] There is created a nonprofit legal entity to be known as the Kentucky Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under KRS 304.42-100 and shall exercise its powers through a board of directors established under KRS 304.42-070. For purposes of administration and assessment, the association shall maintain *two (2)* [~~three (3)~~] accounts:

(1) The life insurance and annuity account which includes the following subaccounts:

(a) Life insurance account;

(b) Annuity account; and

(c) Unallocated annuity account which shall include contracts qualified under 26 U.S.C. section 403 (b).

(2)[~~(a)~~] The health insurance account[~~;~~

~~(b) The life insurance account; and~~

~~(c) The annuity account.~~

~~(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state~~].

Section 4. KRS 304.42-080 is amended to read as follows:

(1) If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, that are approved by the commissioner, and that are (except in the cases of court-ordered conservation or rehabilitation) also approved by the impaired insurer:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer;

(b) Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (c) of this subsection; or

(c) Loan money to the impaired to insurer.

(2) (a) If a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims timely, then, subject to the preconditions specified in paragraph (b) of this subsection, the association shall, in its discretion, either:

1. Take any of the actions specified in subsection (1) of this section subject to the conditions therein; or

2. Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

(b) The association shall be subject to the requirements of paragraph (a) of this subsection only if:

1. The laws of its state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations:

a. The delinquency proceeding shall not be dismissed;

b. Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management;

c. It shall not be permitted to solicit or accept new business or have any suspended or revoked certificate of authority restored; and

2. a. If the impaired insurer is a domestic insurer, it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state; or

b. If the impaired insurer is a foreign or alien insurer, it has been prohibited from soliciting or accepting new business in this state, its certificate of authority has been suspended or revoked in this state, and a petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the insurance supervisory official of that state.

(3) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) 1. Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

2. Assure payment of the contractual obligations of the insolvent insurer; and

3. Provide such monies, pledges, guarantees, or other means as are reasonably necessary to discharge such duties; or

(b) With respect only to life and health insurance policies, provide benefits and coverages in accordance with subsection (4) of this section.

(4) When proceeding under subsections (2)(a)2. or (3)(b) of this section, the association shall, with respect to only life and health insurance policies:

(a) Assure payment of benefits for premiums identical to the premiums and benefits (except for terms of conversion and renewability) that would have been payable under policies of the insolvent insurer, for claims incurred:

1. With respect to group policies, not later than the earlier of the next renewal date under such policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to such policies;

2. With respect to individual policies, not later than the earlier of the next renewal date (if any) under such policies or one (1) year, but in no event less than thirty (30) days, from the date on which the association becomes obligated with respect to such policies;

(b) Make diligent efforts to provide all known insureds or group policyholders with respect to group policies thirty (30) days' notice of the termination of the benefits provided; and

(c) With respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (d) of this subsection, if the insureds had a right under law for the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(d) 1. In providing substitute coverage required under paragraph (c) of this subsection the association may offer either to reissue the terminated coverage or to issue an alternative policy.

2. Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

3. The association may reinsure any alternative or reissued policy.

(e) 1. Alternative policies adopted by the association shall be subject to approval by the commissioner. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

2. Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

3. Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(f) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval by the commissioner or by a court of competent jurisdiction.

(g) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date such coverage or policy is replaced by another similar policy by the policyholder, the insured, or the association.

(5) When proceeding under subsections (2)(a)2. or (3) of this section with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with KRS 304.42-030(2)(b)3. of this section.

(6) Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract for substitute coverage shall terminate the association's obligations under such policy or coverage under this subtitle with respect to such policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this subtitle.

(7) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association, and the association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

(8) The protection provided by this subtitle shall not apply where any guaranteed protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(9) In carrying out its duties under subsections (2) and (3) of this section, the association may, subject to approval by the court:

(a) Impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this subtitle are less than the amounts needed to assure full and prompt performance of the association's duties under this subtitle, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens to be in the public interest; and

(b) Impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value.

(10) If the association fails to act within a reasonable period of time as provided in subsections (2)(a)2., (3), and (4) of this section, the commissioner shall have the powers and duties of the association under this subtitle with respect to impaired or insolvent insurers.

(11) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(12) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subtitle. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights through subrogation of the insurer's policyholders.

(13) (a) Any person receiving benefits under this subtitle shall be deemed to have assigned the rights under, and any causes of action relating to, the covered policy or contract to the association to the extent the benefits received because of this subtitle, whether benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to it of such rights and cause of action by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this subtitle upon such person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this subtitle.

(c) In addition to paragraphs (a) and (b) of this subsection, the association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to such policy or contract.

(14) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this subtitle;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under KRS 304.42-090 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this subtitle; any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as may become necessary or proper under this subtitle;

(e) Take such legal action as may be necessary to avoid payment of improper claims; and

(f) Exercise, for the purposes of this subtitle and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this subtitle.

(15) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association [~~In addition to the powers and duties enumerated in other sections of this subtitle:~~

~~(1) If a domestic insurer is an impaired insurer, the association may, subject to any conditions imposed by the association, other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:~~

~~(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurers;~~

~~(b) Provide such moneys, pledges, notes, guarantees, or other means as are proper to effectuate paragraph (a) of this subsection, and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection; and~~

~~(c) Loan money to the impaired insurer.~~

~~(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:~~

~~(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of the insolvent insurer;~~

~~(b) Assure payment of the contractual obligations of the insolvent insurer; and~~

~~(c) Provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.~~

~~(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:~~

~~(a) Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;~~

~~(b) Assure payment of the contractual obligations of the insolvent insurer to residents; and~~

~~(c) Provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.~~

~~This subsection shall not apply if the commissioner has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this subtitle for residents of this state.~~

~~(4) (a) In carrying out its duties under subsections (2) and (3) of this section, permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:~~

~~1. Finds that the amounts which can be assessed under this subtitle are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest; and~~

~~2. Approves the specific policy liens or contract liens to be used.~~

~~(b) Before being obligated under subsections (2) and (3) of this section the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of cash or policy loan values, and such temporary moratoriums and liens may be imposed if they are approved by the court.~~

~~(5) If the association fails to act within a reasonable period of time as provided in subsections (2) and (3) of this section, the commissioner shall have the powers and duties of the association under this subtitle with respect to insolvent insurers.~~

~~(6) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.~~

~~(7) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subtitle. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.~~

~~(8) (a) Any person receiving benefits under this subtitle shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this subtitle whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this subtitle upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.~~

~~(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this subtitle.~~

~~(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer would have been in the absence of an insolvency unless such obligations are reduced as permitted by subsection (4) of this section but the aggregate liability of the association shall not exceed one hundred thousand dollars ($100,000) in cash values, or three hundred thousand dollars ($300,000) for all benefits, including cash values, with respect to any one life.~~

~~(10) The association may:~~

~~(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this subtitle;~~

~~(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under KRS 304.42-090;~~

~~(c) Borrow money to effect the purposes of this subtitle. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;~~

~~(d) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this subtitle;~~

~~(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;~~

~~(f) Take such legal action as may be necessary to avoid payment of improper claims;~~

~~(g) Exercise, for the purposes of this subtitle and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer~~].

Section 5. KRS 304.42-090 is amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at eight percent (8%) per annum on and after the due date.

(2) There shall be *two (2)* [~~three (3)~~] classes of assessments:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other *expenses and examinations conducted under the authority of KRS 304.42-120(5). Class A assessments may be made whether or not related to a particular impaired or insolvent insurer* [~~general expenses and examinations conducted under the authority of subsection (5) of KRS 304.42-120 not related to a particular impaired or insolvent insurer~~];

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an impaired or insolvent [~~domestic~~] insurer[~~;~~

~~(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an insolvent foreign or alien insurer~~].

(3) (a) The amount of any Class A assessment shall be determined by the board and may be made on a *pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments. A non-pro rata assessment shall not exceed one hundred fifty dollars ($150) per member insurer in any one (1) calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances* [~~non-pro rata basis. Such assessment shall be credited against future insolvency assessments and shall not exceed one hundred and fifty dollars ($150) per member insurer in any one (1) calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies~~];

(b) *Class B assessments against member insurers for each account and subaccount shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account and subaccount for the three (3) most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to such premiums received on business in this state for such calendar years by all assessed member insurers.*

1. Class B assessments for the life insurance and annuity account shall be made as follows:

a. The subaccount or subaccounts representing the kinds of business written by the impaired or insolvent insurer shall be assessed an amount not to exceed one percent (1%) of member insurers' average premiums as described in subsection (5) of this section.

b. If this assessment is inadequate to carry out the association's responsibilities, the association shall make a second assessment, which shall apply to all subaccounts. The second assessment shall be an amount not to exceed one percent (1%) of member insurers' average premiums as defined in subsection (5) of this section, so that the subaccount or subaccounts subject to the initial assessment shall not be assessed in any one (1) calendar year more than two percent (2%) of member insurers' average premiums as defined in subsection (5) of this section.

c. If the previous two (2) assessments are inadequate to carry out the association's responsibilities, the association shall make a third assessment, which shall apply only to the subaccounts which were subject only to the second assessment. The third assessment shall be an amount not to exceed one percent (1%) of member insurers' average premiums as defined in subsection (5) of this section, so that the subaccount or subaccounts subject to the third assessment shall not be assessed in any one (1) calendar year more than two percent (2%) of member insurers' average premiums as defined in subsection (5) of this section. [~~Class C assessments against~~

~~member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers~~]; *and*

(c) [~~Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers; and~~

~~(d)~~] Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this subtitle. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) *(a) The total of all assessments upon a member insurer for each subaccount under the life and annuity account shall not in any one (1) calendar year exceed two percent (2%) and for the health account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's average premiums received in this state on the policies and contracts covered by the subaccounts and account during the three (3) calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this subtitle.*

(b) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims [~~The total of all assessments upon a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this subtitle~~].

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this subtitle, to consider the amount reasonably necessary to meet its assessment obligations under this subtitle.

(8) The association shall issue to each insurer paying an assessment under this subtitle, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

Section 6. KRS 304.42-110 is amended to read as follows:

In addition to the duties and powers enumerated elsewhere in this subtitle:

(1) The commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this subtitle;

(c) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner, *may* [~~shall~~] be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed 5 percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if such appeal is taken within thirty (30) days of the action being appealed. Any final action or order of the commissioner shall be subject to judicial review *as set forth in subtitle 2 of this chapter* [~~in a court of competent jurisdiction~~].

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this subtitle.

Section 7. KRS 304.42-120 is amended to read as follows:

To aid in the detection and prevention of insurer insolvencies or impairments:

(1) It shall be the duty of the commissioner:

(a) To notify the commissioners of all of the other states, territories of the United States and the District of Columbia when he takes any of the following actions against a member insurer:

1. Revocation of license;

2. Suspension of license;

3. Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.

Such notice shall be mailed to all commissioners within thirty (30) days following the action taken or the date on which such action occurs;

(b) To report to the board of directors when he has taken any of the actions set forth in paragraph (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner;

(c) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer;

(d) To furnish to the board of directors the NAIC *insurance regulatory information system information* [~~Early Warning Tests~~] developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be considered public documents.

(4) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty (30) days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection (1) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(6) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer; and may adopt by reference any report prepared by such other associations.

HB 652, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.020 is amended to read as follows:

(1) The commissioner may prescribe, amend and repeal such rules, regulations, forms, *policy statements* and orders as are necessary to interpret and carry out the provisions and intent of this chapter. He shall devise a seal for his department, a description of which, together with an impression thereof and a certificate of approval by the governor, shall be filed in the office of the secretary of state. The seal shall be renewed whenever necessary.

(2) The commissioner of financial institutions and his deputies shall be allowed their necessary traveling and other expenses of conducting their office.

(3) The commissioner of financial institutions may prescribe, amend and repeal regulations *and policy statements* authorizing banks to engage in any banking activity in which such banks could engage were they

operating as national banks at the time such authority is granted, provided that this subsection shall not apply to activities which are expressly prohibited or limited by the statutes of the Commonwealth.

(4) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of KRS 287.105 relative to the leasing of motor vehicles, or of KRS 287.180 relative to the establishment of branches.

Section 2. KRS 287.061 is amended to read as follows:

(1) Whenever an application for approval of a corporation or facility provided for by KRS 287.050, 287.180, or 287.185 is made, notice of such application shall be published.

(2) Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party *may inspect all public records relating to the application to the extent provided by KRS 61.870 to 61.884* [~~shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to said application~~].

(3) The commissioner may cause a hearing to be held if, in his judgment, such hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances. Regardless of whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. Such advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to make written comments on the application shall so indicate to the department in writing within twenty (20) days after publication of the notice.

Section 3. KRS 287.070 is amended to read as follows:

(1) *The minimum capital stock of any bank incorporated in this state after the effective date of this Act shall be one million dollars ($1,000,000)* [~~The capital stock of any financial institution mentioned in KRS 287.040 organized prior to May 31, 1938 shall be maintained in the amount required by the law in effect on May 30, 1938~~].

(2) The minimum capital stock of any [~~bank or~~] trust company *incorporated in this state after the effective date of this Act shall be five hundred thousand dollars ($500,000)* [~~organized after May 30, 1938 shall be as follows, according to the city in which it is located:~~

~~Cities of up to 7,999 population~~	$ 25,000
Cities of 7,999 to 19,999 population	$ 50,000
Cities of 20,000 to 100,000 population	$100,000
Cities of over 100,000 population	$200,000]

(3) The minimum capital stock of *any interim or phantom bank which is created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company or other corporate reorganization or recapitalization shall be three thousand dollars ($3,000)* [~~any combined bank and trust company,~~

~~combined bank and real estate title insurance company or combined trust and real estate title insurance company or combined bank trust and real estate title insurance company, organized after May 30, 1938, shall be not less than twice the amount stated in subsection (2) of this section~~].

(4) The capital stock of any financial institution mentioned in KRS 287.040 incorporated prior to the effective date of this Act shall be maintained in the amount required by the laws in effect on the date the institution was incorporated.

Section 4. KRS 287.095 is amended to read as follows:

(1) *Before* [~~At least sixty (60) days prior to~~] a change *occurs* [~~occurring~~] in the outstanding voting *securities* [~~stock~~] of any bank or trust company which will result in control or in a change in the control of the bank or trust company, *each* [~~the~~] proposed acquiring party [~~or parties~~] shall *file a report with* [~~report such facts to~~] the commissioner *unless the party is, or as a result of the change of control will become, a bank holding company as defined in KRS 287.900. No proposed change which is required to be reported to the commissioner pursuant to this subsection may be effected unless and until the commissioner approves the change. The commissioner shall approve the proposed change in control within sixty (60) days after receipt of the notice* [~~for approval~~] unless the commissioner finds that:

(a) The terms of the acquisition are not in accordance with the laws of this state; or

(b) The financial condition, or the competence, experience and integrity of the acquiring party or parties are such as will jeopardize the financial stability of the bank; or

(c) The public convenience and advantage will not be served by the acquisition.

(2) As used in subsection (1) of this section, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank or trust company. A change in ownership of voting *securities* [~~stock~~] which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of *twenty-five percent (25%) or more* [~~less than ten percent (10%)~~] of the outstanding voting *securities, or the power to vote ten percent (10%) or more of the outstanding voting securities if a stockholder or affiliated group of stockholders is the largest stockholder after the transaction,* [~~stock~~] shall [~~not~~] be considered a change of control. If there is any doubt as to whether a change in the outstanding voting *securities* [~~stock~~] is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the commissioner.

(3) *If* [~~Whenever~~] a bank makes a loan or loans, secured, or to be secured, by twenty-five percent (25%) or more of the outstanding voting *securities* [~~stock~~] of a bank, the president or other chief executive officer of the lending bank shall promptly report *the* [~~such~~] fact to the commissioner upon obtaining knowledge of *the* [~~such~~] loan or loans, except that no report need be made *if* [~~in those cases where~~] the borrower has been the owner of record of the *securities* [~~stock~~] for a period of one (1) year or more, or the *securities* [~~stock is~~] that of a newly organized bank prior to its opening.

(4) The reports required by subsections (1)[~~, (2)~~] and (3) of this section shall contain the following information to the extent that it is known by the person making the report:

(a) The number of shares involved;

(b) The names of the sellers (or transferors);

(c) The names of the purchasers (or transferees);

(d) The names of the beneficial owners if the shares are registered in another name;

(e) The purchase price;

(f) The total number of shares owned by the seller (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction; and in the case of a loan:

1. The name of the borrower;

2. The amount of the loan; and

3. The name of the bank issuing the *securities* [~~stock~~] securing the loan and the number of shares securing the loan.

In addition to the foregoing, such reports shall contain such other information as may be available to inform the commissioner of the effect of the transaction upon control of the bank or trust company whose *securities are* [~~stock is~~] involved.

(5) Whenever such a change as described in subsection (1) of this section occurs, each bank or trust company shall report promptly to the commissioner any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 287.180, any corporation engaged in the business of banking may apply to the commissioner for permission to establish a branch within the county in which the principal office of the bank is located; however, no branch shall be established outside the county in which the principal office of the bank is located.

Section 6. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but in no event shall the indebtedness or obligation of any person exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.

(2) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated. [~~Such indebtedness, which term includes granting a line of credit, or obligation, is permitted if:~~

~~(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and~~

~~(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank or trust company and the interested party has abstained from participating directly or indirectly in the voting provided, that approval by the board of directors under this paragraph is not required:~~

~~1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or~~

~~2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.~~

~~In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection.~~

(3) For purposes of subsection (2) of this section:

(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar open-end credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;

(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and

(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in concert with one (1) or more persons:

1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;

2. Controls in any manner the election of a majority of the directors of the entity or committee; or

3. Has the power to exercise a controlling influence over the management or policies of the entity or committee.]

(3)[~~(4)~~] In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(4)[~~(5)~~] Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(5)[~~(6)~~] The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

Section 7. KRS 287.290 is amended to read as follows:

In the case of obligations to banks and trust companies, the limitations and restrictions of KRS 287.280 shall not apply to:

(1) Obligations of the United States or of the state of Kentucky;

(2) Obligations guaranteed as to principal and interest by the United States or the state of Kentucky; or all obligations to the extent secured or covered by guarantees or by commitments or agreements to take over or to purchase the same made by any federal reserve bank or by the United States or by any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or consolidated bonds issued by or for federal land banks or consolidated debentures issued by or for federal intermediate credit banks under the act of congress known

as the "Federal Farm Loan Act," and amendments thereto; or consolidated debentures issued by or for banks for cooperatives under the act of congress known as the "Farm Credit Act of 1933," and amendments thereto; or obligations issued by the federal home loan banks; or obligations which are insured by the federal housing administrator pursuant to title 12, section 12, section 1713, United States Code, if the debentures to be issued in payment of such insured obligations are guaranteed as to the principal and interest by the United States; or obligations of national mortgage associations; [~~except that the commissioner may make, alter and repeal regulations respecting the total liabilities of any person which:~~

~~(a) Are secured by direct obligations of the United States or the state of Kentucky, and~~

~~(b) Have a face value at least equal to the amount of such liabilities, and~~

~~(c) Will mature within five (5) years from the date such liabilities were incurred.~~]

(3) Obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized by KRS 68.320 and 160.540*;*

(4) Loans or extensions of credit fully secured by:

(a) General obligations of the state of Kentucky or any political subdivision or agency thereof or of any county, city or urban-county government;

(b) Bonds, notes, certificates of indebtedness, or treasury bills of the United States or such other instruments as are fully guaranteed as to principal and interest by the United States; or

(c) Segregated deposit accounts or certificates of deposit in the lending bank or trust company; or

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States. This exception may apply to only that portion of a loan or extension of credit that is covered by the federal guarantee or commitment.

Section 8. KRS 287.440 is amended to read as follows:

(1) The commissioner shall appoint a sufficient number of examiners [~~and assistant examiners~~] to examine all institutions coming under the supervision of the department. A salary schedule for examiners [~~and assistant examiners~~] shall be prepared by the commissioner and presented to the secretary of the finance and administration cabinet for approval. In the event an advisory state banking board is established by law, the appointment and compensation of examiners [~~and assistant examiners~~] shall be with the advice of such board.

(2) The commissioner, the deputy commissioner, *the director of the division of banking* and each examiner shall take the constitutional oath of office.

(3) *No employe of the department* [~~Neither the commissioner, nor the deputy commissioner, nor any examiner or assistant examiner~~] shall *become* [~~be~~] indebted directly or indirectly either as borrower, indorser, surety or guarantor, to any bank or trust company under *the department's* [~~his~~] supervision *except upon the same terms and conditions which any other person may become indebted or obligated* [~~or subject to his examination~~], nor [~~shall he~~] be a director, officer or employe in such bank or trust company[~~, nor engage or become interested in the sale of securities as a business or in the negotiation of loans for others~~]. *Employes of the department shall report any such indebtedness to the commissioner in writing.*

(4) No person shall be assigned to examine the affairs of any bank or trust company *to which he has become indebted or* in a county in which he holds stock in either a state or national bank or trust company.

Section 9. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to *investigation* [~~inspection~~] by the commissioner or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months and not more than twice

unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies.

(2) The commissioner, deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.

(4) The commissioner may examine or inspect the records of any affiliate which has engaged in covered transactions with the bank. The terms "affiliate" and "covered transaction" in this subsection have the meanings contained in Section 23A of the Federal Reserve Act, 12 U.S.C. Section 371C, as amended.

Section 10. KRS 287.470 is amended to read as follows:

(1) Reports of examination of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company, [~~or~~] employe of the department, *or employe of a state or federal regulatory authority* shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the federal deposit insurance corporation, the federal reserve board and the office of the comptroller of the currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 11. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation and to the approval of applications for branch banks *and change of location for a branch bank or principal office*, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of such banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at such rates as the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs (other than costs of examination) incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the federal reserve system, federal deposit insurance corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, [~~including institutions in liquidation under the supervision of the commissioner,~~] shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

Section 12. KRS 287.900 is amended to read as follows:

(1) For purposes of this section and KRS 287.905:

(a) "Bank" means any institution organized under this chapter, the banking laws of another state or the National Bank Act, as amended, to do a banking business. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years;

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. section 1841, et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation; and

(d) *"Kentucky deposits" means the total deposits and member accounts held by federally insured banks, savings and loan associations, savings banks and credit unions in the state* [~~"Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities,~~] as shown in the reports made by *such institutions* [~~all banks~~] to their respective supervisory authorities.

(e) A bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.

(f) A bank which is the result of a merger, consolidation or conversion shall be deemed to have been in existence since the earliest date any of the constitutent institutions to the merger, consolidation or conversion came into existence.

(g) A bank which is organized for the purpose of acquiring substantially all the assets and assuming substantially all of the liabilities of a bank, savings and loan association, savings bank, or the main office and one (1) or more branch offices thereof shall be deemed to have been in existence since the bank, savings and loan association, savings bank, or the oldest of such offices, respectively, came into existence.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in

this state holding more than fifteen percent (15%) of the total *Kentucky* deposits [~~in all banks in this state~~] as reported in the most recent year-end reports made by the *financial institutions referred to in subsection (1)(d) of this section* [~~banks~~] to their respective supervisory authorities which are available at the time of the acquisition.

(4) (a) During the period expiring five (5) years after July 13, 1984, no individual or company wherever located may, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a bank or bank holding company if as a result thereof such individual or company would acquire control of more than three (3) banks in this state during any twelve (12) month period;

(b) Provided, however, a bank holding company wherever located, may acquire control of a bank holding company which has its principal place of business in this state and which controls more than three (3) banks located in this state under conditions approved by the commissioner which would require the following:

1. That an acquisition made under this subsection shall be limited to only one (1) acquisition;

2. That the banks acquired in excess of the three (3) bank per year limitation included in this acquisition shall be counted against future acquisitions during the remaining five (5) year period provided in this subsection; and

3. That the total bank acquisitions by a bank holding company shall not exceed in the aggregate fifteen (15) banks during the five (5) year period provided in this subsection.

(5) The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

(6) (a) Any bank holding company having its principal place of business in a state *other than* [~~which is contiguous to~~] this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.[~~;~~]

[~~(b) From and after two (2) years after July 13, 1984, any bank holding company having its principal place of business in a state other than a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section; and~~

~~(c) For the purposes of this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.~~]

(7) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

(8) Banks located in this state which are controlled by a bank holding company, may consolidate any administrative, management or operational activity directly relating to banking into one (1) designated affiliated bank located in this state, which bank shall be responsible for maintaining appropriate records necessary for examination of that activity by state or federal regulatory authorities.

(9) A depositor with an account at a bank located in this state and controlled by a bank holding company may make deposits and withdrawals on its account at any of the bank holding company's affiliated banks located in this state.

Section 13. KRS 287.905 is amended to read as follows:

(1) Any bank holding company which proposes to acquire control of a bank chartered in this state, *any* [~~or a~~] bank holding company which *controls* [~~includes~~] a bank chartered in this state, *or any bank holding company having its principal place of business in this state that controls a state chartered bank which proposes to acquire control of a bank or bank holding company located in another state,* shall concurrently file with the commissioner copies of the application filed with the federal reserve board under applicable federal law. The commissioner shall approve such acquisition within ninety (90) days of acceptance of a complete application if he finds that:

(a) The terms of the acquisition are in accordance with the laws of this state;

(b) The financial condition, or the competence, experience and integrity of the acquiring company or its principals are such as will not jeopardize the financial stability of the acquired bank or bank holding company;

(c) The public convenience and advantage will be served by the acquisition; and

(d) No federal regulatory authority whose approval is required has disapproved the transaction because it would result in a monopoly or substantially lessen competition.

(2) A non-refundable fee shall accompany each application and shall be set by the commissioner in accordance with KRS 287.480.

(3) The commissioner may examine or elect to participate in a joint examination, with the applicable federal or state regulatory agency, of any holding company or nonbank subsidiary of the holding company that controls or is affiliated with a state-chartered bank.

(4) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to examine an out-of-state bank that is controlled by a Kentucky bank holding company or is controlled by a bank holding company which includes a state-chartered bank, or accept reports of examinations of such out-of-state banks from federal or state regulatory authorities in lieu of conducting examinations.

(5) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to exchange confidential information and reports of examination relating to interstate acquisitions of banks and bank holding companies.

(6) The cost of an examination shall be assessed against and paid by the company examined. The assessment for the examination shall be calculated in the same manner as that used for bank examinations.

Section 14. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200).

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner, *director of the division of banking* or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars ($100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars ($1,000).

(9) Each person, bank or trust company that willfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

(10) *If* [~~Whenever~~] any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9) (15), (16), (17), [~~or~~] (18), *(19) or (20)* of this section is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the fine.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS

287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars ($1,000) per day for each day such violation continues. The fine shall be assessed by the commissioner by written notice. [~~As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation.~~] In determining the amount of the fine the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank *or officer or director thereof who* [~~which~~] violates any provisions of KRS 287.100*(2) or* (10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director *of a bank* who violates the provisions of KRS 287.280(1) *may* [~~and (3) shall~~] be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

(19) Any person who wilfully violates the provisions of KRS 287.095(1) may be fined not more than one thousand dollars ($1,000) per day for each day the violation continues.

(20) Any bank, officer or director thereof or other person who violates any section of KRS Chapter 287 not covered in subsections (1) through (19) of this section, may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

(21) As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cash dispensing machine" means an electronic terminal other than a point-of-sale terminal or full function electronic terminal which dispenses United States currency. An electronic terminal that dispenses only scrip, coupons or similar items is not a cash dispensing machine.

(2) "Customer" means, with respect to a bank, a depositor or borrower of the bank who effects an electronic fund transfer.

(3)"Electronic fund transfer" means any transfer of funds or account information, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape, for the purpose of ordering, instructing, or authorizing a bank to debit or credit one (1) or more customer accounts. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.

(4) "Electronic terminal" means an electronic device through which a customer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines.

(5) "Full function electronic terminal" means an electronic terminal which accepts paper based deposits.

(6) "Paper based deposits" means deposits effected through the transfer or delivery by a customer of paper currency, coin or check, draft or similar paper instrument.

(7) "Point-of-sale terminal" means an electronic terminal which effects a point-of-sale transaction and which

does not accept paper based deposits and either dispenses goods or non-banking services or is located on the premises of an enterprise or business engaged in the providing of goods or non-banking services.

(8) "Point of sale transaction" means an electronic fund transfer initiated through a point-of-sale terminal from a customer's account to an account at any bank to effect payment for the purchase of goods or services.

(9) "Public electronic terminal" means an electronic terminal other than a point-of-sale terminal or a telephone which is deployed in a public place for use by members of the general public.

SECTION 16. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (2) of this section, a bank may own, establish, use or share or operate electronic terminals located anywhere within or outside of this state and the electronic terminals shall not be considered branches within the meaning of this chapter.

(2) A bank may use or share, but shall not own or establish, except as the lessor in a financing lease with an unaffiliated lessee, a full-function electronic terminal or cash dispensing machine, located in this state outside of the geographic area within which the bank may establish or operate a branch.

(3) Subject to the provisions of subsections (4), (5) and (6) of this section, a bank may effect electronic fund transfers upon receipt of any order, instruction or authorization to do so from its customers.

(4) A bank shall not accept paper-based deposits initiated at any electronic terminal which is located in this state outside of the geographic area within which the bank may establish or operate a branch.

(5) A bank shall not effect an electronic fund transfer of funds from the account of a customer to an account at another bank initiated at a full-function electronic terminal, cash dispensing machine or public electronic terminal which is located in this state outside the geographic area within which the bank may establish or operate a branch.

(6) A bank shall not effect any of the following types of electronic funds transfers if they are initiated at a point-of-sale terminal located in this state outside the geographic area within which the bank may establish or operate a branch:

(a) The transfer of funds except in connection with a point-of-sale transaction; or

(b) The dispensing of cash to a customer, except in connection with a point-of-sale transaction.

(7) No later than January 31 of each year, any bank organized under this chapter shall give the commissioner a written report listing any electronic terminal which the bank first used, shared or operated during the preceding year. The report shall set forth the type and location of the electronic terminal and any other information the commissioner may request. If an electronic terminal is established, used, shared or operated by two (2) or more banks, the giving of the report required by or on behalf of any one (1) of the banks, listing all of the banks which have established, used, shared or operated the electronic terminal, shall constitute compliance with this section for all the banks.

(8) Notwithstanding the provisions of this section or any other law, a bank may effect any electronic fund transfer or establish, own, operate, share or use an electronic terminal to the extent allowed national banking associations by the laws of the United States.

SECTION 17. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "trust business" means the exercise of all rights, powers, and duties of a bank or trust company as provided in this chapter, including but not limited to acting as trustee, guardian, executor, administrator, conservator, agent, custodian or arising from having been named or designated as one (1) or more of the foregoing in any will or other writing whenever executed.

(2) If a bank holding company causes an affiliate or subsidiary it controls, which is qualified to conduct trust business in this state, to succeed to part or all of the trust business of any other affiliate or subsidiary,

also so qualified in this state, of the same bank holding company, the successor shall act in place of the predecessor with all the rights, powers, and duties which were granted to or imposed on the predecessor.

(3) The rights, powers and duties of the predecessor affiliate or subsidiary remain unimpaired and continue in the successor, from the time of the taking effect of the succession, irrespective of the date when the relation was established, and irrespective of the date of any related trust agreement or of the date of death of any decedent whose estate is being so administered. Nothing done in connection with the succession shall effect a removal, renunciation or resignation from the executorship, trusteeship, or any other fiduciary relationship.

(4) The successor shall notify the commissioner in writing of such succession. This writing shall serve as notice to the department as to the identity of the successor. Furthermore, in all instances where the predecessor was acting pursuant to order of court, the successor shall notify the court in writing of the succession.

Section 18. KRS 291.115 is amended to read as follows:

(1) Stockholders in investment companies shall be liable equally and ratably, and not one for the other, for all contracts and liabilities of the company to the extent of the amount of their stock at par value, in addition to the amount of such stock.

(2) Persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estates in their hands shall be liable the same as the property of other stockholders.

(3) No transfer of stock shall release any such liability existing at the time of the transfer if the action to enforce such liability is commenced within two (2) years from the time of transfer.

(4) The liability of stockholders provided by this section may be enforced as provided in KRS *Chapter 287* [~~287.365~~] for stockholders of banks and trust companies.

Section 19. The following KRS sections are repealed:

287.325 Advertising notice required where not federally insured.

287.360 Double liability for certain stock issued prior to May 16, 1936.

287.365 Enforcement of stockholders' liability.

The Committee Amendment No. 1 to **HB 652** is as follows:

Amend printed printed copy of **HB 652** on page 26, by deleting lines 24, 25 and 26 in their entirety

On page 27, by deleting lines 1 through 5 in their entirety

On page 27, line 6 by deleting "*(9)*" and inserting in lieu thereof "*(8)*".

The Committee Amendment No. 2 to **HB 652** is as follows:

Amend printed copy of **HB 652** on page 8, by deleting lines 16 through 24 in their entirety and by renumbering the subsequent sections accordingly.

The Committee Amendment No. 3 to **HB 652** is as follows:

Amend printed copy of **HB 652** on page 22, line 12 by inserting after "*largest*" and before "." the words "*but it shall be subject to the regulatory authority of the department*".

Representative Deskins moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Deskins moved that his vote be changed from "nay" to "yea" on on **HB 437**. Agreed.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "nay" on **HB 533**. Agreed.

Representative T. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Jones moved that he be recorded as voting "nay" on **HB 418**, "yea" on **SB 8**, **SB 112**, **HB 437**, **HB 397** and **HB 196**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representative P. Clark; **HB 204**, Representative M. Brown; **HB 228**, Representative Preston; **HB 309**, Representative Stumbo; **HB 357**, Representative Yates; **HB 400**, Representative Hourigan; **HB 455**, Representative Bruce; **HB 480**, Representatives Cyrus, Gregory, A. Jones, Lefevers, Maggard, Mason, Morris, Ridley, Stumbo, White; **HB 550**, Representative Handy; **HB 551**, Representative Handy; **HB 552**, Representative Handy; **HB 636**, Representatives Freibert, White.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions:

HB 595, Representative Handy; **HCR 61**, Representative White.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to **HB 37**, by Representative Barrows:

Amend printed copy of **HB 37** on page 2, line 12, after the word "*schools*" and before the "." by inserting the words: "*and to provide for public participation in the adoption process of such list*"

and on line 26, after the word "*professionals*" insert "*and one (1) qualified parent*".

Page 3, line 17, delete "*nine (9)*" and insert in lieu thereof, "*ten (10)*".

Page 5, line 14, after the "." insert "*One (1) reviewer shall be a parent of a child currently enrolled in public schools in Kentucky.*"

Page 10, line 2, delete "*nine (9)*" and insert in lieu thereof, "*ten (10)*".

Floor Amendment No. 1 to **HB 361**, by Representative Morris:

Amend printed copy of **HB 361** on page 2, after line 25 and before line 26 by inserting "*(3) The commissioner shall by October 1, 1988 prescribe by regulation a uniform form to be used by insurers to report only the fifteen (15) items of information listed in subsection (1) of this section to the legislative research commission.*"

Floor Amendment No. 2 to **HB 522**, by Representative Johnson:

Page 2, line 22, Amend printed copy of **HB 522** after the word "*districts.*" by adding the following:

"*The AIDS prevention curriculum shall emphasize, but not be limited to, discussion of self-esteem, self-*

discipline, respect for others, self-discipline, respect for others, the emotional, educational, health and social advantages of premarital abstinence and the development of skills with which to practice premarital abstinence."

Floor Amendment No. 3 to **HB 522**, by Representative Burch:

Amend printed copy of **HB 522** on page 3, line 16 by adding a new section to read as follows:

"Section 4. The responsibilities of the department of personnel and of the cabinet for human resources to carry out the provisions of this Act shall be limited to the amount of funding appropriated for Acquired Immune Deficiency Syndrome education. When such funds are exhausted no action shall be taken to compel the provision of additional services."

Floor Amendment No. 1 to **HB 540**, by Representative Freibert:

Amend printed copy of **HB 540** on page 2, delete lines 5-12 in their entirety.

On page 2, after line 26 insert the following:

"*(3) For those businesses receiving assistance on or after July 15, 1988, and receiving a Kentucky development finance authority loan in excess of two hundred and fifty thousand dollars ($250,000), or a combined Kentucky development finance authority loan and economic development bond program loan in excess of two hundred and fifty thousand dollars ($250,000), the biennial report shall also include:*

(a) An estimate of the effect of the assisted business on other businesses within the state;

(b) An estimate of the increased cost of public services resulting from each funded project including, but not limited to, roads, sewer, water, utilities, pollution control and educaton; and

(c) An estimate of state and local taxes paid by each business."

Floor Amendment No. 1 to **SB 169**, by Representative McElroy:

Amend printed copy of **SB 169** on page 5, line 8, by inserting after the word "*Act*" the following "*;*" and by deleting the words "*and to*" and by creating a new paragraph with all the language following the word "*proposed*" on lines 8, 9, and 10 by inserting before the word "*proposed*" the following "*(c) Any*"; and

On page 5, line 11, by changing the "*(c)*" to "*(d)*".

The Clerk announced the following meetings:

The Committee on Energy, February 17, 1988, 11:00 a.m., Room 104.

The Committee on Counties and Special Districts, February 17, 1988, 8:30 a.m.

The Committee on Rules will meet upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 17, 1988.

On the roll call the vote was yeas 86-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lefevers, Lile, Little, Long, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Prichett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 3-Heleringer, LeMaster, Preston.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 17, 1988

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 16, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 23**, **SB 65**, **SB 68**, **SB 104**, **SB 131**, **SB 174**, **SB 188**, **SB 198**, **SB 199**, **SB 216**, **SCR 45** and **HB 11**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 23** and **HB 31** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

HB 23 and **HB 31** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 689, by Representative Farrow: AN ACT relating to motor vehicles.

HB 690, by Representative Johnson: AN ACT relating to state police retirement.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 682**, **HB 685**.

Business Organizations and Professions: **HB 681**.

Counties and Special Districts: **HB 677**.

Education: **HB 678**.

Health and Welfare: **HJR 94**.

Judiciary-Civil: **HB 680**, **HB 686**.

Judiciary-Criminal: **SB 178**, **SB 185**.

Labor and Industry: **HB 679**, **HB 688**.

Natural Resources and Environment: **HB 683**, **HB 684**.

State Government: **SB 180.**

Transportation: **HB 687.**

Report of Committees

The Committee on Rules reported **HB 361**, **HB 410**, **HB 507**, **HB 509**, **HB 569**, **HB 319**, **HB 429**, **HB 430**, **HB 432**, **HB 480**, **HB 547** and **SB 169** have been posted for passage in Orders of the Day, February 18, 1988.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 291.**

The Committee on Appropriations and Revenue reported **HB 405** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 405, AN ACT relating to a tax refund designation for the bluegrass state games.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for the tax year beginning January 1, 1988 and until the state treasurer certifies that the assets of the bluegrass state games exceed twenty million dollars ($20,000,000), any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to such program. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to said programs. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return.

(3) The secretary of revenue shall annually certify by December 1 all such designated amounts to be paid by the state treasurer. The treasurer shall annually remit by the following January 1 such funds to the appropriate official designated by the governing body of the games.

The Committee on Counties and Special Districts reported **HB 564**, with Committee Amendment attached thereto, and **HB 496**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 564, AN ACT relating to counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.310 is amended to read as follows:

(1) No county may contract an indebtedness which, together with all other indebtedness of the county, is in excess of one-half of one percent (.5%) of the value of the taxable property therein, as determined by the next preceding complete assessment, and issue valid bonds therefor, without having first secured the written approval of the state local finance officer. Any other bonds to be issued or reissued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local finance officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue or reissue of county bonds voluntarily as provided in this section, all bonds thereafter issued or reissued by the county must be approved as provided in this section.

(2) Without the approval of the state local finance officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless such bonds if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If such approval is required, the state local finance officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsection (3), and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if the same shall have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.

(3) The state local finance officer shall hold a hearing for the purpose of determining whether any issue or reissue of bonds submitted to him for approval should be approved or disapproved. The state local finance officer shall withhold his approval if he believes the financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county; if, in his discretion, the issue or reissue of bonds will not serve the best interests of both the county issuing same and a majority of its creditors; or if it appears that the bonds or the issuance thereof will be invalid. *The state local finance officer shall assess the life-span of bonded projects and, when necessary, require the local jurisdiction to provide an independent assessment of the useful life of the project. The state local finance officer shall not approve those projects in which the debt service payments are required over a longer time period than the useful life of the project. Counties seeking approval for bonded projects involving roads or bridges shall submit a description of the project to the transportation cabinet for review of its useful life expectancy. The transportation cabinet shall perform the reviews at no charge and forward its review to the state local finance officer within thirty (30) days of receipt.* If the state local finance officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local finance officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be such as to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.

(4) The state local finance officer shall give at least two (2) weeks' notice of the hearing herein above required to the county judge/executive of the county proposing to issue such bonds, and the county judge/executive shall cause a copy of said notice to be published pursuant to KRS Chapter 424. In the case of bonds proposed to be issued for the purpose of refunding currently outstanding bonds, the state local finance officer shall in addition cause a notice of the hearing to be published pursuant to KRS Chapter 424 and at least ten (10) days, exclusive of Sundays and holidays, prior to the date set for the hearing in a financial newspaper or periodical having general circulation among bondholders and bond dealers and said notice shall be paid for by the executive department for finance and administration out of its appropriation. Any party having a material interest shall have an opportunity to be heard and to present evidence. The state local finance officer shall make a record of the proceedings of such hearing and shall prepare a written decision approving or disapproving the issuance of the proposed bonds. Any interested party or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the commission from the decision of the state local finance officer. The commission, upon the basis of the record prepared by the state local finance officer, and of any additional evidence which may be introduced, shall pass upon the decision of the state local finance officer.

(5) Within thirty (30) days, exclusive of Sundays and holidays, after a decision by the commission any interested party or taxpayer of the county, upon filing bond for costs, may appeal to the Franklin Circuit Court or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the circuit court of the county proposing to issue said bonds. Appeal shall be taken by filing with the clerk of the court a copy of the record of the proceedings and decision of the state local finance officer and the decision of the commission. The commission, the fiscal court, the taxpayers of the county, and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. To facilitate adjudication the state local finance officer is hereby required, on payment of a reasonable fee therefor to be fixed by the state local finance officer, to supply a certified copy of such records to any party. The case shall be advanced on the docket of the circuit court and shall be heard and decided as in the case of a declaratory judgment, except that all findings of fact of the state local finance officer and of the commission shall be final if supported by any substantial evidence, provided, however, that in the case only where the question of the validity of the indebtedness proposed to be funded or refunded is in issue, additional evidence relating to the validity

of such indebtedness may be presented.

(6) An appeal may be taken from the circuit court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

(7) In case no appeal is taken from the approval of a bond issue by the state local finance officer or the commission as provided in this section, said decision as to the legality of such bonds shall be res adjudicata in any subsequent case or cases raising such question of legality. When bonds are approved as provided in this section, they shall not be required to be approved as provided in KRS 66.210 and 66.220.

(8) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local finance officer and of the commission shall be filed with the secretary of state.

The Committee Amendment No. 1 to **HB 564** is as follows:

Amend printed copy of **HB 564** on page 7, line 1, by adding thereafter the following:

"Section 2. KRS 147A.020 is amended to read as follows:

(1) The state local finance officer shall exercise all administrative functions of the state as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.

(2) The state local finance officer, except as provided in KRS 147A.025(1), shall have the following powers and duties:

(a) To require such reports from local governments as will enable him adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.

(b) To conduct training programs to instruct county and local government officials respecting their duties and responsibilities in the collection, expenditure and management of public moneys subject to their control and jurisdiction.

(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.

(d) To request such assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.

(e) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(3) The state local finance officer shall coordinate for the governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to general revenue sharing for local government.

(4)*(a)* The state local finance officer shall provide technical assistance and information to units of local government, including but not limited to *fiscal management and purchases and contracts*[~~:~~

~~(a) Fiscal management; and~~

~~(b) Purchases and contracts~~].

(b) No county government shall, without prior authorization of the state local finance officer, make any payment for liability, property or workers' compensation insurance unless the insurance company is licensed in Kentucky with a "Best Insurance Reports, Property Liability" rating of at least BXII, or the payment is to a group or joint self-insured fund, association or liability self-insurance group organized under KRS 342.340, 342.350 or 304.1-120(6). If none of the preceding criteria are met, the state local finance officer shall authorize payments only if, in his opinion, the insurance company has sufficient capital and reserves to pay all potential claims under the policies of insurance.".

HB 496, AN ACT relating to sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly of the Commonwealth of Kentucky hereby finds and determines that by virtue of KRS 431.007, which authorizes sheriffs and their deputies to exercise authority and perform duties in counties other than their home counties under certain circumstances; KRS 431.215, which requires sheriffs to convey prisoners to institutions of confinement that may be outside their home counties; and KRS 431.045, which permits sheriffs and their deputies to pursue and arrest individuals across corporate or county lines, sheriffs by having the ability to perform such duties and to render such services constitute officers whose jurisdiction or duties are coextensive with the Commonwealth within the meaning of section 246 of the Constitution of Kentucky.

(2) The general assembly further finds and determines that the increase in duties occasioned by the enactment of KRS 431.007 in 1986 takes the adjustment brought about by Section 2 of this Act outside the prohibition set forth in section 161 of the Constitution of Kentucky so that the provisions of Section 2 of this Act shall apply to the holders of the office of sheriff on the effective date of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Each sheriff shall receive for the performance of his duties an annual salary in such amount and manner and from such source as provided for by this chapter.

(2) In order to equate the compensation of sheriffs with the purchasing power of the dollar, the department for local government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the sheriff, as an officer whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The department for local government shall notify the appropriate governing body charged by law to fix the compensation of the sheriff at the annual rate of compensation to which the sheriff is entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department for local government, the appropriate governing body may set the annual compensation of the sheriff at a rate no greater than that stipulated by the department for local government.

Section 3. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, [~~sheriffs,~~] justices of the peace, county commissioners and coroners with the purchasing power of the dollar, the department for local government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The department for local government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department for local government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department for local government.

The Committee Substitute to **HB 496** is as follows:

HB 496, AN ACT relating to sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly of the Commonwealth of Kentucky hereby finds and determines that by virtue of KRS 431.007, which authorizes sheriffs and their deputies to exercise authority and perform duties in counties other than their home counties under certain circumstances; KRS 431.215, which requires sheriffs to convey prisoners to institutions of confinement that may be outside their home counties; and KRS 431.045, which permits sheriffs and their deputies to pursue and arrest individuals across corporate or county lines, sheriffs by having the ability to perform such duties and to render such services constitute officers whose jurisdiction or duties are coextensive with the Commonwealth within the meaning of section 246 of the Constitution of Kentucky.

(2) The general assembly further finds and determines that the increase in duties occasioned by the enactment of KRS 431.007 in 1986 takes the adjustment brought about by Section 2 of this Act outside the prohibition set forth in section 161 of the Constitution of Kentucky so that the provisions of Section 2 of this Act shall apply to the holders of the office of sheriff on the effective date of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Each sheriff shall receive for the performance of his duties an annual salary in such amount and manner and from such source as provided for by this chapter.

(2) In order to equate the compensation of sheriffs with the purchasing power of the dollar, the department for local government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the sheriff, as an officer whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The department for local government shall notify the appropriate governing body charged by law to fix the compensation of the sheriff at the annual rate of compensation to which the sheriff is entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department for local government, the appropriate governing body may set the annual compensation of the sheriff at a rate no greater than that stipulated by the department for local government.

Section 3. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, [~~sheriffs,~~] justices of the peace, county commissioners and coroners with the purchasing power of the dollar, the department for local government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The department for local government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department for local government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department for local government.

Section 4. KRS 64.345 is amended to read as follows:

(1) The county clerk [~~and sheriff~~] of each county having a population of seventy-five thousand (75,000) or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) *The sheriff of each county having a population of seventy-five thousand (75,000) or over shall receive a maximum annual salary, which shall be no less than the amount computed by the department for local government pursuant to KRS 64.527 and no greater than the amount computed by the department for local government pursuant to subsection (2) of Section 2 of this Act, as fixed by the fiscal court not later than the first Monday of May in the year in which the sheriff is elected, which annual salary shall not be changed during the term, exclusive of adjustments to reflect changes in the purchasing power of the dollar as computed by the department for local government. On or before September 1, 1988, the fiscal court shall fix the maximum annual compensation for the sheriff, within the limitations provided herein, for calendar year 1988 and for the remaining years in the sheriff's current term, notwithstanding any other provisions of this section which may be inconsistent*

herewith. This subsection shall also apply to sheriffs in counties containing a city of the first class and in counties having an urban-county form of government, except that the maximum annual salary for such sheriffs shall be fixed by an order entered upon the order book of the circuit court and signed by the chief judge thereof, instead of by the fiscal court.

(3) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court, and signed by the chief judge thereof. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy-five thousand (75,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department for local government.

(4)[~~(3)~~] Each officer shall, on the first day of each month, send to the department for local government a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department for local government the amount so collected or received. The department for local government may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(5)[~~(4)~~] The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the department for local government made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department for local government to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the department for local government by the officer during his official term.

(6)[~~(5)~~] In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of seventy-five thousand (75,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department for local government.

Section 5. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are

elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

(7) Notwithstanding subsections (1) and (3) of this section, the maximum annual compensation of the sheriff shall be fixed by the fiscal court not later than the first Monday of May in the year in which the sheriff is elected, and the compensation of the sheriff shall not be changed during the term, exclusive of adjustments to reflect changes in the purchasing power of the dollar as computed by the department for local government. The maximum set by the fiscal court shall be no less than the amount computed by the department for local government pursuant to KRS 64.527 and shall be no greater than the amount computed by the department for local government pursuant to subsection (2) of Section 2 of this Act. On or before September 1, 1988, the fiscal court shall fix the maximum annual compensation, within the limitations provided herein, for calendar year 1988 and for the remaining years in the sheriff's current term, notwithstanding any other provisions of this section which may be inconsistent herewith.

Section 6. KRS 64.535 is amended to read as follows:

(1) The county clerk *and* [,] county judge/executive [~~and sheriff~~] of each county shall receive a maximum monthly salary of one-twelfth (1/12) of fourteen thousand three hundred dollars ($14,300) to be paid solely out of the statutory fees and salaries received by him during the calendar year.

(2) The sheriff of each county shall receive a maximum monthly salary of one-twelfth (1/12) of the maximum annual compensation fixed by the fiscal court pursuant to KRS 64.530(7) to be paid solely out of the statutory fees and salaries received by him during the calendar year.

The Committee on Judiciary Criminal reported **HB 463**, with Committee Amendment attached thereto, and **HB 485** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 463, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with defects in adaptive behavior and manifested during the developmental period.

(2) Notwithstanding any other provision of law, no person who is mentally retarded, as defined above, shall be sentenced to death or executed.

The Committee Amendment No. 1 to **HB 463** is as follows:

Amend printed copy of **HB 463** on page 1, line 6, following "*period*" to add the following: "*and the same being verified by two (2) independent psychologists, as defined in KRS 504.060*"

HB 485, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; and

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties;

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

9. In his youth the defendant was subjected to extreme physical or sexual abuse.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Calendar

HB 462, HB 571 and **HB 652** taken from the Calendar and ordered read at length for the second time.

Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HJR 57 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HJR 57** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 17, 1988 roll call on **HJR 57** - Appendix A.)

HJR 57 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HJR 57** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Maggard moved the adoption of Legislative Citation No. 65. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Richard McCune on his outstanding achievements. Richard has brought academic and athletic honor not only to himself but to his family and school by being the first Breathitt County student ever to sign with the University of Kentucky Football Program. Richard is also the first Breathitt County student to be a member of the Kentucky All-Star Football Team. Not only has Richard brought athletic honors to Breathitt County but he has also maintained a 3.5 Grade Point Average and is a member in good standing with the National Honor Society and an Academic All-American.

This prestigious body joins Representative Jim Maggard in applauding your far reaching ambitions.

HB 526, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved the adoption of Committee Amendment No. 1 to **HB 526**. Agreed.

Representative K. Harper moved that **HB 526**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 17, 1988 roll call on **HB 526** - Appendix A.)

HB 526, as amended, was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 526**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 539 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 539** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See February 17, 1988 roll call on **HB 539** - Appendix A.)

HB 539 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 539** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 537 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 537** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 17, 1988 roll call on **HB 537** - Appendix A.)

HB 537 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 537** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 538 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 538** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 17, 1988 roll call on **HB 538** - Appendix A.)

HB 538 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 538** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of Committee Amendment No. 1 to **HB 540**. Agreed.

Representative Freibert moved the adoption of Floor Amendment No 1 to **HB 540**. Agreed.

Representative Freibert moved that **HB 540**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 17, 1988 roll call on **HB 540** - Appendix A.)

HB 540, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 540**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 223 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 223** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 17, 1988 roll call on **HB 223** - Appendix A.)

HB 223 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which **HB 223** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 522, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 3 to **HB 522**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 2 to **HB 522**.

On the roll call the vote was yeas 68-Adams, Adkins, Allen, Altman, Arnold, Ballard, Blandford, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, J. Harper, K. Harper, Heleringer, Hoover, Johnson, A. Jones, R. Jones, Keith, Kerr, Lefevers, Lile, Little, Lundergan, Lyne, Maggard, Mason, McElroy, Moberly, Napier, Noland, Northup, O'Brien, Preston, Pritchett, Reinhardt, Richards, Ridley, Riner, Robinson, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Walker, White, Will, Worthington, Yates. Nays 21-Ackerson, Ark, Barrows, Blevins, Burch, Farrow, Gray, Hancock, Handy, Hatcher, Jackson, T. Jones, Layman, Lear, Long, Mack, McBee, Noe, Rapier, Scorsone, Turner.

Floor Amendment No. 2 to **HB 522** was adopted.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 522**. Rejected.

Representative Burch moved that **HB 522**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 11. (See February 17, 1988 roll call on **HB 522** - Appendix A.)

HB 522, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 522**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 497, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 497**. Agreed.

Representative B. Smith moved that **HB 497**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See February 17, 1988 roll call on **HB 497** - Appendix A.)

HB 497, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 497**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 349, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 349**. Agreed.

Representative Richards moved that **HB 349**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 17, 1988 roll call on **HB 349** - Appendix A.)

HB 349, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 349**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 37, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 2 to **HB 37**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HB 37**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 37**.

On the roll call the vote was yeas 16-Barrows, Bruce, Burch, Deskins, Geveden, T. Jones, Lear, Long, Lundergan, Meyer, Moberly, Morris, Noe, Overstreet, Rapier, White. Nays 69-Adkins, Altman, Ark, Ballard, Blevins, Bronger, J. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Todd, Walker, Will, Yates.

Floor Amendment No. 2 to **HB 37** was rejected.

Representative Nett moved the adoption of Committee Amendment No. 1 to **HB 37**.

On the roll call the vote was yeas 78-Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blevins, Bronger, J. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Heleringer, Hoover, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Nett, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Todd, Turner, Walker, Will, Worthington, Yates. Nays 20-Adams, Barrows, M. Brown, Bruce, Hancock, Hatcher, Hourigan, T. Jones, Lear, Long, Lundergan, Meyer, Moberly, Morris, Napier, Noe, Overstreet, Rapier, Seum, Stumbo.

Committee Amendment No. 1 to **HB 37** was adopted.

Representative Barrows moved that **HB 37**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 7. (See February 17, 1988 roll call on **HB 37** - Appendix A.)

HB 37, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 37**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 175** and **HB 11** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:56 p.m.)

Orders of the Day (continued)

HB 544 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HB 544** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 17, 1988 roll call on **HB 544** - Appendix A.)

HB 544 was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 544** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 392 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved that **HB 392** be passed.

On the roll call the vote was: Yeas 60, Nays 29. (See February 17, 1988 roll call on **HB 392** - Appendix A.)

HB 392 was passed and the title agreed to.

Representative Seum moved that the vote by which **HB 392** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 691, by Representative Preston: AN ACT relating to outdoor advertising.

HB 692, by Representative Meyer: AN ACT relating to detention facilities and jailers, and declaring an emergency.

HB 693, by Representative Lear: AN ACT relating to involuntary commitment for drug and alcohol abuse treatment.

HB 694, by Representative Guenthner: AN ACT relating to crimes and punishments.

HB 695, by Representatives Handy, Mack and Hatcher: AN ACT relating to nuisance abatement.

HB 696, by Representatives Ford, Maggard, Allen, Noland, Walker, Gedling and Robinson: AN ACT relating to insurance.

HB 697, by Representatives Ford, Altman and Robinson: AN ACT relating to condemnation proceedings.

HR 96, by Representative Noland: A RESOLUTION honoring Dr. Dennis L. Brewer.

HJR 97, by Representative Hancock: A JOINT RESOLUTION directing a study of the needs and financing of transportation systems in the Commonwealth of Kentucky and making an appropriation therefor.

HR 98, by Representative Rapier: A RESOLUTION recognizing the United States Constitution Bicentennial Commission of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 556, HB 626.**

Appropriations and Revenue: **HB 483, HB 596, HB 591, HB 654.**

Agriculture and Small Business: **HB 235.**

Cities: **HB 584.**

Motions, Petitions and Communications (continued)

Representative Noland moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION honoring Dr. Dennis L. Brewer.

WHEREAS, for the past sixteen years, Dr. Dennis L. Brewer has faithfully served as pastor of the Beattyville Baptist Church; and

WHEREAS, Dr. Dennis L. Brewer, having been ever mindful of the needs and desires of his community, is commended for his excellent leadership qualities; and

WHEREAS, Dr. Dennis L. Brewer was instrumental in leading the efforts to construct the Beattyville Little League Baseball Field; and

WHEREAS, Dr. Dennis L. Brewer is an exemplary citizen of the Commonwealth, having served in numerous civic and religious organizations; and his community has benefited from his tireless efforts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky expresses its deep sense of appreciation for the outstanding contributions Dr. Dennis L. Brewer has made on behalf of his community.

Section 2. That copies of this resolution be sent to Dr. Dennis L. Brewer, Pastor, Beattyville Baptist Church, Box Z, Beattyville, Kentucky 41311.

HR 96 was adopted by voice vote.

Representative Northup moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Northup moved that her vote be changed from "nay" to "yea" on **HB 540**. Agreed.

Representative Heleringer moved that the rules be suspended to withdraw the following Bills: **HB 187**, **HB 231**, **HB 279**, **HB 327**, **HB 355**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 37, Representative Ackerson; **HB 230**, Representative Castleman; **HB 235**, Representative Long; **HB 248**, Representative Farrow; **HB 369**, Representative Gedling; **HB 370**, Representative Gedling; **HB 463**, Representative Meyer; **HB 480**, Representatives Casebier, Geveden, Guenthner, J. Harper, Nett, R. Smith and Will; **HB 522**, Representative Ackerson; **HB 526**, Representative Ackerson; **HB 537**, Representative Ackerson; **HB 538**, Representative Ackerson; **HB 539**, Representative Ackerson; **HB 540**, Representative Ackerson; **HB 550**, Representative Blevins; **HB 551**, Representative Blevins; **HB 552**, Representative Blevins; **HJR 57**, Representative Ackerson.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 429**, by Representative Worthington:

Amend printed copy of **HB 429/HCS** on page 17, line 17, by inserting after the word "*thereto.*" the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall adopt the requirements of any final federal environmental protection agency regulation relating to solid waste landfills within six (6) months of the federal regulation being published."

Floor Amendment No. 1 to the Committee Substitute to **HB 430**, by Representative Worthington:

Amend printed copy of **HB 430/HCS** on page 2, line 4, by inserting after the word "*landfill.*" the following:

"*For the purposes of this Act, "gross receipts" shall include the cost of disposal at the landfill plus all costs associated with transporting the waste to the landfill. The fiscal court of the host county may estimate reasonable transportation costs in the absence of such costs being accurately reflected on the accounts of the landfill.*"

Floor Amendment No. 2 to the Committee Substitute to **HB 430**, by Representative Worthington:

Amend printed copy of **HB 430/HCS** on page 2, line 4, by inserting after the word "*landfill*" the following:

"*if the landfill receives one thousand (1000) tons or more of waste per day. The fee may be set up to but no more than one dollar ($1.00) per ton of waste received or set up to but no more than ten percent (10%) of gross receipts of the landfill if the landfill receives at least one hundred (100) but no more than one thousand (1000) tons of waste per day. The fee may be set up to but no more than four dollars ($4.00) per ton of waste received or set up to but no more than twenty percent (20%) of gross receipts of the landfill if the landfill receives any amount of waste up to one hundred (100) tons per day.*"

Floor Amendment No. 1 to the Committee Substitute to **HB 432**, by Representative Worthington:

Amend printed copy of **HB 432/HCS** on page 3, line 5, by changing the "*(3)*" to "*(6)*"; and

On page 3, between lines 9 and 10, by inserting the following:

"(2) If the landfill does not necessarily receive waste from outside of the Commonwealth but does accept waste from outside of the planning area, which shall mean those areas within Kentucky as indicated in solid waste management plans filed with the cabinet by a county, multi-county area, or waste management district, the landfill shall comply, within thirty (30) days of the effective date of this Act, to the requirements of the cabinet applicable to contained landfills unless a waiver is obtained pursuant to subsection (4) of this section.

(3) If the landfill receives waste for disposal in amounts greater than one hundred (100) tons per day, the landfill shall comply, within thirty (30) days of the effective date of this Act, to the requirements of the cabinet applicable to contained landfills unless a waiver is obtained pursuant to subsection (4) of this section.

(4) The fiscal court of the host county shall be authorized to grant waivers from the requirements of subsections (2) and (3) of this section as necessary in order to address local solid waste management needs and local environmental risks."; and

On page 3, line (10), changing "*(2)*" to "*(5)*"; and

On line (18), changing "*(3)*" to "*(6)*"; and

On line (25), changing "*(4)*" to "*(7)*".

Floor Amendment No. 2 to **SB 169**, by Representative Bronger:

Amend printed copy of **SB 169** on page 5, line 10, by deleting after the word "*Act;*" the following: "*and*";

On page 5, line 15, by deleting after the word "*subsidiary*" the following: "." and by inserting the following: "*; and (d) Any hazardous waste incinerator which is located, or which may be located, in any county having a city of the first class.*"

Floor Amendment No. 3 to **SB 169**, by Representative M. Brown:

Amend printed copy of **SB 169** on page 5, lines 2 and 3, by deleting after the word "*incinerator*" the following: "*having all required permits or authorizations*" and by inserting the following: "*which has been issued a permit under applicable state and federal authority*"

The Clerk announced the following meetings:

Republican Caucus, February 18, 1988, 12:30 p.m.

The Committee on Agriculture and Small Business, February 18, 1988, 9:00 a.m., Room 305.

The Committee on Cities, February 18, 1988, 9:00 a.m.

The Committee on Rules, State Reception Room, upon adjournment.

The Clerk announced all co-sponsors of **HB 480** wishing to have their photographs made with Victoria Principal may do so on February 18, 1988 from 10:30 to 11:00 a.m., State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 1:30 p.m., Thursday, February 18, 1988.

On the roll call the vote was yeas 77-Adams, Allen, Ark, Arnold, Ballard, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Seum, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 6-Casebier, Handy, Hatcher, LeMaster, Mason, Preston.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 18, 1988

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 17, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 192**

Introduction of Bills and Resolutions

HB 698, by Representatives Scorsone, Gray and M. Brown: AN ACT relating to to occupational safety and health of employes.

HB 699, by Representative McElroy: AN ACT relating to state personnel.

HB 700, by Representative McElroy: AN ACT relating to the Kentucky judicial form retirement system.

HB 701, by Representative Priddy: AN ACT relating to dogs.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 692**.

Banking and Insurance: **SB 68, HB 696**.

Counties and Special Districts: **HB 695**.

Judiciary-Civil: **SB 104, SB 65, HB 693, HB 697**.

Judiciary-Criminal: **HB 694**.

State Government: **SCR 45, SB 23, SB 216, SB 199, SB 198, SB 188, SB 174, SB 131, HB 690**.

Transportation: **HJR 97, HB 689, HB 691**.

Report of Committees

The Committee on Rules reported **SB 77, HB 400, HB 468, HB 504, HJR 28, HCR 48, HCR 69** and **HR 72** have been posted for passage in Orders of the Day, February 19, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 19, 1988: **HB 81** and **HB 576**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Transportation: **HB 357**, **HB 360**, **HB 467**, **HB 687**.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 18**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 18, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if such sale amounts to twenty-five cents (25) or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in

the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke and wood. Determinations of eligibility for the exemption shall be made by the revenue cabinet;

(b) In making such determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the public service commission. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption;

(c) The exemption does not apply where charges for sewer service, water and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years; and

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

(10) Gross receipts from sales to an out-of-state agency exempt from tax in its state of residence when that agency gives proof of its tax exempt status to the seller and the seller maintains a file of such proof.

The Committee Substitute to **HB 18** is as follows:

HB 18, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if such sale amounts to twenty-five cents (25) or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke and wood. Determinations of eligibility for the exemption shall be made by the revenue cabinet;

(b) In making such determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the public service commission. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption;

(c) The exemption does not apply where charges for sewer service, water and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years; and

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

(10) Gross receipts from sales to an out-of-state agency, organization or institution exempt from sales and use tax in its state of residence when that agency, organization or institution gives proof of its tax exempt status to the seller and the seller maintains a file of such proof.

The Committee on Agriculture and Small Business reported **HB 17** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 17. AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a "retail sale" or "sale at retail" is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is *either:*

(1) Purchased for resale *according to the provisions of KRS 139.270 or 139.410;*

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.490; or

(3) Purchased according to regulations of the revenue cabinet governing a direct pay authorization.

Section 2. KRS 139.270 is amended to read as follows:

(1) The *resale* certificate relieves the seller from the burden of proof only if taken in good faith from a person who*:*

(a) Is engaged in the business of selling tangible personal property*;* [~~and who~~]

(b) Holds the permit provided for in KRS 139.250*;*[~~,~~] and [~~who,~~]

(c) At the time of purchasing the tangible personal property, *indicates his intention* [~~intends~~] to sell it in the regular course of business *by executing the resale certificate.*

(2) "Good faith" [~~on the part of the seller~~] shall be demonstrated by the seller *if he:*

(a) Accepts a properly completed resale certificate;

(b) Maintains a file of such certificate in accordance with KRS 139.720; and

(c) Determines [~~determining~~] that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

(3) If the cabinet later finds that the seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 3. KRS 139.400 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is *either:*

(1) Purchased for resale *according to the provisions of KRS 139.270 or 139.410;*

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.490; or

(3) Purchased according to regulations of the revenue cabinet governing a direct pay authorization.

Section 4. KRS 139.410 is amended to read as follows:

(1) The *resale* certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who*:*

(a) Is engaged in the business of selling tangible personal property*;* [~~and who~~]

(b) Holds the permit provided for by KRS *139.250;* [~~139.240,~~] and [~~who,~~]

(c) At the time of purchasing the tangible personal property, *indicates his intention* [~~intends~~] to sell it in the regular course of business *by executing the resale certificate.*

(2) "Good faith" on the part of the seller shall be demonstrated by the seller *if he:*

(a) Accepts a properly completed resale certificate;

(b) Maintains a file of such certificate in accordance with KRS 139.720; and

(c) Determines [~~determining~~] that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

(3) If the cabinet later finds that the seller exercised good faith according to provisions of subsection (2) of this section and that the purchaser used the property in a manner that would not have qualified for resale status, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 5. KRS 139.490 is amended to read as follows:

If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to exclude from the computation of the sales tax the gross receipts from the sale and uses the property in some other manner or for some other purpose, the purchaser, *not the seller,* shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property at the time of such use, and the cost of the property to him shall be deemed the gross receipts from such retail sale. The certificate of exemption relieves the seller from the sales and use tax only if he takes the certificate in good faith from the purchaser. Good faith shall be demonstrated by the seller if he accepts a signed certificate and maintains a file of such certificate in accordance with KRS 139.720. If the cabinet later finds that the purchaser used the property in a manner that would not have qualified for tax exempt status, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply any penalties as provided in KRS 139.990.

Section 6. KRS 139.990 is amended to read as follows:

(1) Any person who *executes:* [~~gives~~]

(a) A resale certificate for property *in accordance with KRS 139.270 or 139.410,* knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter*;*

[~~shall, upon conviction, be subject to a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.~~

~~(2) Any person who executes a~~]

(b) An exemption certificate *for property* in accordance with KRS 139.490, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner*; or*

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030;

shall, upon conviction, be subject to a fine of not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(2)[~~(3)~~] A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (10) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment.

(3)[~~(4)~~] Any person who violates any of the provisions of KRS 139.220, 139.370, 139.380, 139.700, or 139.750 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100), or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(4)[~~(5)~~] Any person who violates any of the regulations promulgated by the cabinet under KRS 139.230 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(5)[~~(6)~~] Any person, business or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars ($5,000), or imprisoned not more than three (3) years, or both, together with the costs of prosecution. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

SECTION 7. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) The revenue cabinet shall not promulgate any regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270, 139.410, 139.490, and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the revenue cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270, 139.410, 139.490, and 103 KAR 31.030.

The Committee on Cities reported **HB 408**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 408. AN ACT relating to urban-county retirement programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 67A.360 to 67A.690 notwithstanding, any urban-county created after the effective date of this Act:

(1) May adopt the provisions of KRS 67A.320 to 67A.340 and KRS 67A.360 to 67A.690. If the urban-county adopts a pension system subject to KRS 67A.320 to 67A.330, KRS 67A.340 or KRS 67A.360 to 67A.690, the provisions of the statutes adopted shall apply to the urban-county without qualification;

(2) May adopt any pension system enumerated in KRS 65.156 which is permitted to the highest class of city which joined in the creation of the urban-county;

(3) May adopt the provisions of KRS 78.510 to 78.852;

(4) Shall, for employes in service prior to the merger of governments, continue any pension system which was in effect in the county or any city comprising the urban-county. If the urban-county adopts another pension system for which any or all such employes are eligible, an eligible employe may join the new system and transfer all of the service credit with which he was credited in his old system to the new system, subject to time limits for decision making which may be found in applicable statutes.

The Committee Substitute to **HB 408** is as follows:

HB 408, AN ACT relating to urban-county retirement programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Urban-county governments created after the effective date of this Act shall not be governed by the provisions of KRS 67A.320 to 67A.340 and 67A.360 to 67A.690. They shall continue any pension system which was in effect in the county or any city comprising the urban county, but may close such system to new members in favor of participation in the county employes retirement system. If the urban county adopts the provisions of KRS 78.510 to 78.852, employes in service on the date of participation shall be given the option to join the county employes retirement system, as provided for in KRS 78.530 and 78.531.

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.310 to 90.420, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884 and *KRS Chapter 96* [~~96.180~~], notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.520 to 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884 or *KRS Chapter 96* [~~96.180~~] shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884 or *KRS Chapter 96* [~~96.180~~] by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute *or plan,* unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

The Committee on State Government reported **HB 560**, **HB 583** with Committee Amendment attached thereto, **HB 590** with Committee Substitute attached thereto, **HB 641**, and **SB 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 560, AN ACT relating to the creation of an economic development advisory commission and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created an economic development advisory commission which shall promote, encourage and aid the development of business, industry, commerce and other vital economic interests of the state.

(2) (a) The commission shall be attached to the commerce cabinet or its successor organizational unit, for administrative support and dissemination of information.

(b) The commission shall have fifteen (15) members composed of the lieutenant governor or his designee, the secretary of the commerce cabinet or his designee, the secretary of the tourism cabinet or his designee, the secretary of the energy cabinet or his designee, the secretary of the natural resources and environmental protection cabinet or his designee, the secretary of the transportation cabinet or his designee, the commissioner of agriculture or his designee, the executive director of the council on higher education or his designee and one (1) member

appointed by the governor from each congressional district. It is recommended that at least five (5) of the members appointed from the congressional districts shall be of private sector economic development interests.

(c) The commission shall be headed by a chairman and vice chairman elected from the membership of the commission.

(d) The commission shall meet at least once each calendar quarter or at the call of the chairperson.

(3) For the purpose of continunity, the seven (7) commission members appointed from the congressional districts shall be initially appointed as follows: one (1) member shall be appointed to a term of one (1) year; two (2) members shall be appointed to a term of two (2) years; two (2) members shall be appointed to a term of three (3) years; two (2) members shall be appointed to a term of four (4) years. After the initial terms expire all appointments shall be for terms of four (4) years or until expiration of the commission. Incumbent members shall serve until their terms expire or until their successors are appointed. Incumbent members shall be eligible for reappointment.

(4) Members of the economic development advisory commission shall serve with no compensation but shall be reimbursed for actual expenses incurred in conducting the business of the commission. The expenses of those commission members appointed from the congressional districts shall be paid from funds appropriated to the commission; the expenses of other commission members shall be paid from funds appropriated to their respective state agencies.

(5) (a) The commission shall exist for a period of six (6) years beginning July 15, 1988, and terminating July 15, 1994.

(b) The program review and investigations committee shall review the activities and accomplishments of the commission and make recommendations to the 1990, 1992 and 1994 regular sessions of the general assembly.

(6) The commission shall formulate a six (6) year strategic plan for the purpose of establishing a direction for and the continuity of economic growth at state and local levels. The plan shall present a range of coordinated economic development initiatives which shall include, but not be limited to: education, agriculture, tourism, energy, capital resources, international trade, small business development, retention and expansion of industry and infrastructure development. The plan shall identify the major roles and activities to be carried out by state and local governments, the state's public universities and educational institutions and the private sector. The plan shall include funding recommendations and a list of criteria for evaluating the effectiveness of the economic development initiatives proposed in the plan.

(7) The commission shall conduct an ongoing review and critique of major economic development projects which require a commitment of state funds in excess of two hundred fifty thousand dollars ($250,000) and report its findings to the governor and the legislative research commission.

Section 2. There is appropriated from the general fund to the economic development advisory commission ten thousand dollars ($10,000) in fiscal year 1988-1989 and ten thousand dollars ($10,000) in fiscal year 1989-1990 to be used for reimbursement of expenses to commission members and operating expenses of the commission.

HB 583, AN ACT relating to bond allocation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 103.286 is amended to read as follows:

(1) The Kentucky *private activity* [~~industrial development~~] bond allocation committee is established. The purpose of the committee *shall be* [~~is~~] to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of [~~"~~]private activity bonds,[~~"~~] as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of *the* [~~such~~] bonds imposed by the [~~Act of Congress commonly known as the~~] Tax Reform Act of *1986* [~~1984~~], 26 U.S.C. sec. 103(n). The committee shall be attached to the finance and administration cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of finance, who shall be chairman of the committee; the secretary of the commerce cabinet; the state budget director; the executive director of the office for program administration; and the chairman of the industrial revenue bond oversight committee,

or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of such bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) During the period of January 1 to September 30 of each year, the committee shall provide that forty percent (40%) of the private activity cap be reserved for state bond issuance authorities and sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

(b) As of October 1 of each calendar year the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of finance *shall* [~~may~~] promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of *the* [~~such~~] bonds within the Commonwealth of Kentucky[~~, in order to maximize utilization of the state ceiling, to foster economic development within the Commonwealth, and promote the general welfare of its citizens, and the public purposes of the Commonwealth, regardless of whether such issuers are at the state or local level~~].

(4) No [~~such~~] bonds *governed by KRS 103.286* shall be issued that are not in compliance with the state ceiling, *subsections (3)(a) and (b) of this section or* [~~and~~] with the allocation, *application or review* procedures established by the secretary of finance.

Section 2. KRS 103.287, Legislative finding of fact — Governor to prescribe most appropriate formula for allocation of state ceiling on issuance of private activity bonds, is repealed.

The Committee Amendment No. 1 to **HB 583** is as follows:

Amend printed copy of **HB 583** on page 1, line 12, by inserting after "sec." the number "*146*" and by placing brackets around and striking through "103(n)".

HB 590, AN ACT relating to the secretary of state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 14.090 is amended to read as follows:

(1) The secretary of state shall charge and collect for the state the following fees:

For issuing commission with seal of Commonwealth attached and all necessary forms to a commissioner of foreign deeds	$5.00
[~~For issuing commission with seal of Commonwealth to a notary public~~	~~$2.00~~]
For issuing remission or respite	$2.00
For affixing seal of Commonwealth to all attestations and certificates *or furnishing a certified copy of any document by the secretary of state (per page)*	*$ .50*
and for the certificate and affixing the seal thereto	*$5.00*
[~~by the secretary of state~~	~~$2.00~~]
For each warrant of arrest	$2.00
[~~For issuing a certification as provided in KRS 355.9-407~~	~~$2.00~~

~~For providing a certified copy of a financing statement or statement of assignment as provided in KRS 355.9-407~~ .... ~~$2.00~~

~~For each filing with the secretary of state required by KRS 355.9-401~~ .... ~~$8.00~~]

(2) No fee shall be collected for affixing the state seal to a commission issued to any public officer other than commissioner of foreign deeds or notary public, or to a grant, or to a pardon of a felony.

Section 2. KRS 56.300 is amended to read as follows:

The secretary of state shall collect the following fees for services in connection with the land office:

(1) [~~Assignment, copy of, for each~~ $0.25

(2)] *For filing of a* caveat *$10.00*

[~~:For filing~~ .... ~~.25~~

~~Copy of, for every twenty (20) words~~ .... ~~.02~~

~~(3) Entry, copy of, for each~~ .... ~~.50~~]

(2)[~~(4)~~] Judgment in cases of caveat, mandamus or other action affecting the land office or the land office duties of the secretary of state, for filing copy of .... *$10.00* [~~.25~~]

(3)[~~(5)~~] *Copy of each* land warrant *1.00*

[~~: For issuing~~ .... ~~1.00~~

~~Copy of, for each~~ .... ~~.50~~]

(4)[~~(6)~~] Official certificate with seal of office affixed, for each *patent* .... *$5.00* [~~1.00~~

~~(7) Patent or survey, attested copy of with seal of office affixed, for each~~ .... ~~1.00~~]

(5)[~~(8)~~] Plat and certificate of survey, for filing and registering, and issuing and recording patent thereon .... *$25.00* [~~2.50~~]

(6)[~~(9)~~] Plat, copy of, for each .... *$1.00* [~~.50~~]

(7) Warrant, survey, grant, for copy of each *$1.00*

(8) Copy of any other document (per page) .... *$ .50*

[~~(10) Writing not specifically provided for, copy of, for every twenty (20) words~~ .... ~~.02~~]

The Committee Substitute to **HB 590** is as follows:

HB 590, AN ACT relating to the secretary of state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 14.090 is amended to read as follows:

(1) The secretary of state shall charge and collect for the state the following fees:

For issuing commission with seal of Commonwealth attached and all necessary forms to a commissioner of foreign deeds ... $5.00

[~~For issuing commission with seal of Commonwealth to a notary public~~ ... ~~$2.00~~]

For issuing remission or respite ... $2.00

For affixing seal of Commonwealth to all attestations and certificates *or furnishing a certified copy of any document by the secretary of state (per page)* ... *$ .50*

and for the certificate and affixing the seal thereto ... *$5.00*

[~~by the secretary of state~~ ... ~~$2.00~~]

For each warrant of arrest ... $2.00

[~~For issuing a certification as provided in KRS 355.9-407~~ ... ~~$2.00~~

~~For providing a certified copy of a financing statement or statement of assignment as provided in KRS 355.9-407~~ ... ~~$2.00~~

~~For each filing with the secretary of state required by KRS 355.9-401~~ ... ~~$8.00~~]

(2) No fee shall be collected for affixing the state seal to a commission issued to any public officer other than commissioner of foreign deeds or notary public, or to a grant, or to a pardon of a felony.

Section 2. KRS 56.300 is amended to read as follows:

The secretary of state shall collect the following fees for services in connection with the land office:

(1) [~~Assignment, copy of, for each~~ ... ~~$0.25~~

~~(2)~~] *For filing of a* caveat ... 25

[~~: For filing~~ ... ~~.25~~

~~Copy of, for every twenty (20) words~~ ... ~~.02~~

~~(3)~~ ~~Entry, copy of, for each~~ ... ~~.50~~]

(2)[~~(4)~~] Judgment in cases of caveat, mandamus or other action affecting the land office or the land office duties of the secretary of state, for filing copy of ... .25

[~~(5)~~ ~~Land warrant~~ ... ~~:~~

~~For issuing~~ ... ~~1.00~~

~~Copy of, for each~~ ... ~~.50~~]

(3)[~~(6)~~] Official certificate with seal of office affixed, for each *patent* ... *$5.00* [~~1.00~~

~~(7)~~ ~~Patent or survey, attested copy of with seal of office affixed, for each~~ ... ~~1.00~~]

(4)[~~(8)~~] Plat and certificate of survey, for filing and registering, and issuing and recording patent thereon 2.50

[~~(9)~~	~~Plat, copy of, for each~~	~~.50~~]
(5)	*Warrant, survey, grant, for copy of each*	*$1.00*
(6)	*Copy of any other document (per page)*	*$ .50*
[~~(10)~~	~~Writing not specifically provided for, copy of, for every twenty (20) words~~	~~.02~~]

SECTION 3. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	*Articles of incorporation*	*$ 40*
(b)	*Application for use of indistinguishable name*	*$ 20*
(c)	*Application for reserved name*	*$ 15*
(d)	*Notice of transfer of reserved name*	*$ 15*
(e)	*Application for registered name*	*$ 36*
(f)	*Application for renewal of registered name*	*$ 36*
(g)	*Corporation's statement of change of registered agent or registered office or both*	*$ 10*
(h)	*Agent's statement of change of registered office for each affected corporation*	*$ 10 not to exceed a total of $1,000*
(i)	*Amendment of articles of incorporation*	*$ 40*
(j)	*Restatement of articles of incorporation*	*$ 40*
(k)	*Amended and restated articles*	*$ 80*
(l)	*Articles of merger or share exchange*	*$ 50*
(m)	*Articles of dissolution*	*$ 40*
(n)	*Articles of revocation of dissolution*	*$ 15*
(o)	*Reinstatement penalty following administrative dissolution*	*$ 100*
(p)	*Application for certificate of authority*	*$ 90*
(q)	*Application for amended certificate of authority*	*$ 40*
(r)	*Application for certificate of withdrawal*	*$ 40*
(s)	*Annual report*	*$ 15*
(t)	*Articles of correction*	*$ 20*
(u)	*Application for certificate of xistence or authorization*	*$ 10*

(e) Any other document required or permitted to be filed by this chapter.............................$ 15

(2) The secretary of state shall collect a fee of ten dollars ($10) each time process is served on him under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.

(3) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) Fifty cents (50) a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

Section 4. The following KRS sections are repealed:

271A.630 Fees for filing documents and issuing certificates.

271A.635 Miscellaneous charges.

HB 641, AN ACT relating to state printing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 57.031 TO 57.041 IS CREATED TO READ AS FOLLOWS:

Recognizing that ink produced from soybean oil is biodegradable with no known negative environmental impact, and that the state's farmers are economically distressed and need additional income, it is the public policy of the Commonwealth of Kentucky that state agencies shall use printing ink produced from soybean oil if the secretary of the finance and administration cabinet determines that it is cost effective. The secretary shall make the determination of cost effectiveness each year. If the secretary determines the use of soybean oil ink is cost effective, he shall implement procedures requiring its use for printing.

SB 20, AN ACT relating to disaster and emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

The purpose of the supplementary state fund established in KRS 39.480 is to:

(1) Assist local disaster and emergency service organizations established pursuant to KRS 39.415 to develop adequate emergency response capabilities;

(2) Maintain and improve existing organizations through enhanced training, planning, staffing, and equipment acquisition; and

(3) Benefit the state as a whole, through creation of a better prepared network of emergency response organizations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) The adjutant general, as director of the division of disaster and emergency services, shall have overall

responsibility for policy, guidance, administration, and proper utilization of the supplementary fund established in KRS 39.480.

(2) The executive director shall serve as the primary advisor to the adjutant general and shall serve as the principal liaison between the adjutant general and local officials participating in programs affected by this fund.

(3) The executive director shall appoint an advisory committee consisting of seven (7) members, including no more than four (4) employes of the staff of the division of disaster and emergency services to assist him in making initial funding allocations each fiscal year and in making quarterly adjustments, based upon program and financial reviews. The members of the committee shall serve at the pleasure of the executive director, but for no more than four (4) years without reapppointment, and shall serve without reimbursement, except when funded through the emergency management assistance programs. The decisions of the committees shall be advisory only and not binding upon the executive director.

(4) The executive director, with the advice of the advisory committee, shall make determinations related to fund allocations.

(5) Disaster and emergency services area coordinators shall fully explain program opportunities and requirements to local elected officials and local disaster and emergency services directors, review budget and program submissions, and make recommendations to the executive director.

(6) Funds pursuant to KRS 39.480 shall be made available to not more than one (1) disaster and emergency services organization per county, regional, or multijurisdictional unit, on a reimbursement basis up to fifty (50) percent of the total local, regional, or multijurisdictional funds expended in any given year by the local, regional, or multijurisdictional disaster and emergency services organization created pursuant to KRS 39.415.

SECTION 3. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

Local disaster and emergency services organizations created pursuant to KRS 39.415 shall be eligible to receive benefits from the fund created pursuant to KRS 39.480 if they meet the following criteria:

(1) The local organization shall have a qualified director who is capable of performing during an emergency, devoting time to administrative matters, and available to participate in federal and state training programs. Unless he has already completed an introductory emergency management course or is determined by the executive director to be suitably qualified, during the first year of participation in the funding program, the local disaster and emergency services director, whether serving on a voluntary or paid basis, shall have successfully completed all correspondence courses specified by the division of disaster and emergency services, by administrative regulation. He shall also participate in an emergency management workshop when offered. Unless he has already completed an introductory emergency management course or is determined by the executive director to be suitably qualified, each director who is reimbursed for his services shall also attend an introductory emergency management course when offered.

(a) In following years, each local disaster and emergency services director shall attend, as a minimum, an emergency management workshop, when offered.

(b) In subsequent years, a local disaster and emergency services director paid for spending at least twenty (20) hours weekly in emergency management matters shall continue his education by completing advanced instruction offered by the division of disaster and emergency services, as required by administrative regulations promulgated by the division of disaster and emergency services. The requirements of this section may be met by successfully completing related courses offered by federal agencies.

(2) Each local disaster and emergency services employe, other than the disaster and emergency services director, whose salary is reimbursed in part by this fund shall attend one (1) emergency management workshop at least every other year.

(3) Within the first year of participation in the funding program, the local, regional, or multijurisdictional organization created pursuant to KRS 39.415 shall complete a basic emergency operations plan and appropriate annexes. This plan shall be subject to final approval by the executive director of the division of disaster and

emergency services. In subsequent years, the plan and all annexes shall be reviewed and up-dated annually.

(4) During the second and each subsequent year of participation in the program, the local, regional or multijurisdictional organization shall conduct an exercise to test the operations plan.

(5) Each participating organization created pursuant to KRS 39.415 shall have an organized operating center, from which emergency operations shall *be conducted. This center shall provide resources for the coordination of all emergency elements of government.*

(6) Each participating local, regional, or multijurisdictional disaster and emergency services organization shall develop, and submit annually to the state division of disaster and emergency services, a program paper detailing the goals for the next fiscal year. Forms for this report shall be provided by the division of disaster and emergency services. This report shall be submitted as part of the budget request.

(7) Each employe of a local, regional, or multijurisdictional disaster and emergency services organization created pursuant to KRS 39.415 with the exception of the local disaster and emergency services director and his deputy, if the deputy functions in a policymaking capacity, whose salary is reimbursed in part or in total with these funds shall meet the standards of the Kentucky merit system or the standards of the federal office of personnel management or its successor.

(8) In order for a county, local, regional or multijurisdictional disaster and emergency services organization to be able to participate in the program, one of the following persons shall attend an annual emergency management workshop:

(a) The county judge/executive.

(b) The deputy county judge/executive.

(c) The mayor of an urban-county government or the largest city in the county or the mayor of the city which is the county seat of the county.

(d) The city manager.

(e) The disaster and emergency services deputy director.

(f) A member of the fiscal court or urban county council of the county.

(g) In a county where the disaster and emergency services director is not paid, the disaster and emergency services director.

(9) The division of disaster and emergency services shall, by administrative regulation, determine:

(a) Public officials and disaster and emergency services related personnel who may be reimbursed for attendance at emergency management workshops or other activities; and

(b) Reimbursements for attending courses and workshops which shall be limited as follows:

1. Reimbursement rates for meals and travel mileage shall not exceed those for state employes.

2. Reimbursement shall be made for attending the workshop or course nearest to the participant's residence. A participant may attend a workshop at a greater distance if he so chooses but he will be reimbursed for meals and mileage equal to that of attending the nearest workshop or course. In cases of extreme hardship, the nearest course or workshop requirement may be waived by the executive director.

(10) The division of disaster and emergency services shall:

(a) Publicize all available state and federal emergency management agency training courses to all local

mayors, county judges/executive, and disaster and emergency services directors.

(b) Assist local personnel listed in subsection (1) of this section in gaining entrance to state and federal emergency management agency training courses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) Local, regional, or multijurisdictional disaster and emergency services organizations created pursuant to KRS 39.415 requesting financial aid from the fund created pursuant to KRS 39.480, shall submit, by August 15 of each year, a local "Annual Program Paper" to the division of disaster and emergency services area coordinator.

(2) The disaster and emergency services area coordinator shall review the application and accompanying documents and forward them to the executive director of the division of disaster and emergency services along with the area coordinator's recommendations with regard thereto.

(3) The executive director shall submit the request for financial aid to the advisory committee for its review and recommendations. The advisory committee shall review the application, accompanying documents and recommendation of the area coordinator and make a recommendation to the executive director with regard to the application and the request for funding.

(4) Requests for funding shall be evaluated by the following criteria:

(a) Meeting the eligibility criteria specified in Section 3 of this Act, unless some aspect thereof has been waived as provided in Section 7 of this Act.

(b) Plans submitted and an assessment of the capability to achieve them.

(c) Past program performance.

(d) Historical expenditure records for this and similar programs.

(e) Local resources committed to the program.

(5) In the event available funds do not meet the total funds requested by all jurisdictions then funding requests may be reduced after a reevaluation of the criteria set forth in subsection (4).

(6) The executive director of the division of disaster and emergency services shall then, review and evaluate each request, together with the recommendations thereon, and, not later than September 15, designate funds for approved programs and notify the applicant.

SECTION 5. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) Within fifteen (15) days of the end of each month or quarter, the local, regional, or jurisdictional disaster services organization shall submit a completed claim of reimbursement with supporting documentation, to the disaster and emergency services area coordinator. After review, the disaster and emergency services area coordinator shall forward the documentation to the state division of disaster and emergency services and a reimbursement check shall be returned to the jurisdiction. Reimbursement shall be at the predetermined rate.

(2) Requests to utilize these funds to purchase equipment shall be submitted for approval or denial in advance of the purchase to the executive director of the division of disaster and emergency services. To obtain approval, the local, regional, or multijurisdictional disaster and emergency services organization shall submit a project application to the disaster and emergency services area coordinator, who shall review it and forward it to the executive director together with the area coordinator's recommendations in reference thereto. If the application is approved by the executive director, the local organization shall be notified of the approval and, after making the purchase, may submit a reimbursement claim.

SECTION 6. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) The performance of each local, regional, or multijurisdictional disaster and emergency services organization receiving funding pursuant to KRS 39.480 shall be evaluated quarterly as to needs and the achievement of program goals by the organization. Based upon this evaluation:

(a) Programs which are deficient may have funds withheld and those funds which have been withheld may be transferred to other programs or organizations.

(b) Programs which meet or exceed their minimum program goals and have needs for additional funds for program improvements may be granted additional requested funds, or portions thereof, for use by the organization in making the improvements.

(2) Program progress shall be reviewed quarterly by the disaster and emergency services area coordinator of the area in which the organization is located. The area coordinator shall make a determination as to whether the organization is making satisfactory progress toward the achievement of the goals outlined in the program paper. The area coordinator shall transmit the report to the executive director of the division of disaster and emergency services together with his recommendations thereon.

(3) The executive director shall then review the material submitted, together with the recommendations thereon, and submit it to the advisory committee for its evaluation and recommendations with regard thereto.

(4) The advisory committee shall transmit to the executive director its assessment of the jurisdiction's progress and its recommendations with regard thereto. The executive director shall review the report and all recommendations thereon. The executive director shall then make a final determination with regard to compliance and progress and, if a deficiency is found, the measures which shall be taken to assure compliance.

(5) Local jurisdictions determined not to be making satisfactory progress toward the goals outlined in the program paper shall be given thirty (30) days to correct the deficiencies in the manner outlined by the executive director.

(6) A local organization aggrieved by a decision of the executive director with regard to noncompliance or deficiencies may appeal the decision in writing to the executive director within thirty (30) working days.

(a) With the filing of the appeal the organization shall indicate whether or not they are requesting a hearing on the matter.

(b) If a hearing has been requested on the matter the executive director shall set a hearing to be held at the division of disaster and emergency services offices in Frankfort within fifteen (15) days of the receipt of the appeal.

(c) At the hearing the local organization and the division of disaster and emergency services and such other persons and organizations as may have information bearing on the matter may be present. Any party may be represented by counsel. The hearing shall be tape recorded.

(d) Within fifteen (15) days of the close of the hearing, or within fifteen (15) days of the date of the receipt of the appeal if no hearing was requested, the executive director shall render a decision in the matter.

(7) A local organization remaining aggrieved after an appeal to the executive director may appeal the decision to the adjutant general within fifteen (15) days. At this appeal there shall be no hearing. The adjutant general shall review all of the material presented and the tape recording of the hearing, if a hearing was held, and shall render a decision thereon within ten (10) working days. In the event the adjutant general is on active military duty or is unavailable he may assign a deputy or assistant who is not assigned to the division of disaster and emergency services to hear the appeal.

(8) A local organization aggrieved by a decision of the adjutant general or his designee may appeal to the Franklin circuit court within twenty (20) days of the receipt of the adjutant general's decision. The court's review shall be from the record and shall not be de novo.

(9) If a decision has been made by the executive director to withhold funding from the jurisdiction, that funding shall remain withheld during the pendency of any appeals of the decision.

(10) At the end of the thirty (30) day period further funding may be withdrawn by the executive director if the deficiencies have not been corrected. Such funds may then be reallocated to other organizations.

(11) The executive director, during the review process outlined in this section, shall also review the expenditure rate of each organization receiving funds. If it is determined that an organization will not utilize all allocated funds, appropriate portions of the allocation may be withdrawn and reallocated to another organization.

SECTION 7. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:020, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

Requests for the waiver of any requirement of Sections 1 through 6 of this Act may be submitted with appropriate justification to the executive director of the division of disaster and emergency services. The executive director may grant such waivers only if, in his opinion, the justification merits special action and failure to grant the waiver would jeopardize the continuation or development of the local program. In every case, the executive director shall insure that the local program continues to meet the basic intent of KRS Chapter 39. Waivers shall apply on a one time basis relating to a specific request.

SECTION 8. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

The rescue aid program, which is administered pursuant to KRS 39.445 and appropriations in the state budget, is designed to:

(1) Reduce and prevent the loss of life by creating a better equipped, trained, and coordinated rescue force throughout the Commonwealth;

(2) Upgrade the capabilities of local rescue squads by providing financial assistance to be used to purchase equipment and obtain training; and

(3) Encourage the development of rescue squads where none exist.

SECTION 9. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) The adjutant general, as director of the division of disaster and emergency services, shall have overall responsibility for policy, guidance, administration, implementation, and proper utilization of the rescue aid fund.

(2) The executive director of disaster and emergency services shall serve as the primary advisor to the adjutant general, the principal liaison between the adjutant general and local officials participating in programs affected by the rescue aid fund, and shall ensure proper utilization of the rescue aid fund.

(3) The executive director shall appoint an advisory committee consisting of seven (7) members, including no more than four (4) employes of the staff of the division of disaster and emergency services to assist him in making determinations related to rescue grant fund allocations, compliance with fund requirements, releasing equipment to rescue squads, and withdrawal and reallocation of equipment or funds. The members of the committee shall serve at the pleasure of the executive director, but for no more than four (4) years without reappointment, and shall serve without reimbursement, except when funded through the emergency management assistance program. The decisions of the committee shall be advisory only and shall not be binding upon the executive director.

(4) The executive director, with the advice of the advisory committee, shall make determinations relating to rescue grant fund applications, releasing equipment to rescue squads, and withdrawal and reallocation of equipment or funds.

(5) Disaster and emergency services area coordinators shall fully explain rescue grant opportunities and requirements to local elected officials and local disaster and emergency services directors, and local rescue squads,

review budget and program submissions, and make recommendations to the executive director.

(6) Local disaster and emergency service directors shall be responsible for submitting requests and documentation of expenditures to the division of disaster and emergency services, as required, and shall ensure the coordination of rescue programs at the local level.

(7) The chief officer of the rescue squad shall initiate project applications for funds and shall ensure that all funds are expended for items or services as approved.

SECTION 10. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

In order to ensure that rescue squads seeking funding under the rescue grant program achieve and maintain compliance with the provisions of KRS 39.445, the following requirements shall be met:

(1) Each rescue squad shall develop written bylaws to specify as a minimum:

(a) The mission of the rescue squad.

(b) The election or appointment, succession, and term of officers.

(c) Financial accounting and property accountability.

(d) Administrative procedures.

(e) What constitutes active membership in the squad.

(2) Each rescue squad shall develop written standard operating procedures which specify as a minimum:

(a) Rules of notification and response to emergencies.

(b) Operating procedures for the operations and response aspects of squad activities.

(3) A current copy of the bylaws and a current copy of all standard operating procedures shall be sent by the squad to the state division of disaster and emergency services. Amendments to the bylaws and standard operating procedures shall be sent to the state division of disaster and emergency services within ten (10) working days of their adoption. The state division of disaster and emergency services shall maintain a file of rescue squad bylaws and standard operating procedures. All such files shall be public records. Copies of the bylaws and standard operating procedures of the squad, updated as required herein, shall also be sent to the local disaster and emergency services director.

(4) Each rescue squad shall have a vehicle dedicated solely to rescue service. The make, model, year, vehicle identification number and license number of each vehicle used by the squad solely for rescue service shall be supplied to the local disaster and emergency services director and to the state division of disaster and emergency services. When a new vehicle is put in service, or a vehicle is withdrawn from service, both the local disaster and emergency services director and the state division of disaster and emergency services shall be notified within ten (10) working days.

(5) A minimum of twelve (12) persons shall be identified by name as active members of the rescue squad.

(6) The active membership list of the rescue squad shall be submitted quarterly to the state division of disaster and emergency services through the disaster and emergency services area coordinator. The same list shall be submitted quarterly to the local disaster and emergency services director.

(7) The active membership list shall be maintained on a constantly updated basis by the rescue squad and shall be available for inspection by state and local government officials and employes.

(8) Rescue squads shall maintain a formal training program appropriate to accomplishing the mission of the rescue squad.

(a) The training program shall consist of not less than two (2) hours of formal training per month. Actual rescue missions shall not constitute training.

(b) To be eligible for continued funding each squad shall report not less than 168 man hours of training for its members annually. This training shall be reported on the incident and training reports submitted pursuant to Section 13 of this Act.

(c) Training at the disaster and emergency services rescue school or other appropriate training may be utilized to meet the requirements of subsection (2)(b).

(9) Rescue squads shall be formally affiliated with the local disaster and emergency services organization through the following means:

(a) Execution of a county ordinance or resolution, or a written agreement signed by the county judge/executive, and the disaster and emergency services director and the chief rescue officer, outlining a specific working agreement. The document shall include, as a minimum, call out authority, chain of command, and the responsibilities of each concerned party;

(b) The responsibilities of the rescue squad shall be incorporated into the county emergency operations plan or an annex thereto.

(10) When a rescue squad is not independent, but is incorporated within other emergency service agencies or departments, such as a fire department, the squad members shall be available for and capable of performing rescue services not incidental to their primary mission.

(11) Rescue squads shall maintain a full complement of minimum equipment appropriate to the type of rescue to be undertaken. Minimum equipment lists shall be promulgated by the division of disaster and emergency services by administrative regulation.

(12) Rescue squads shall not assess fees or charges for any rescue activity.

SECTION 11. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) A rescue aid project application is initiated by the chief rescue officer and forwarded to the local disaster and emergency services director for review and consolidation. In the absence of a local disaster and emergency services director, the county judge/executive shall fill this role.

(2) The local disaster and emergency services director shall forward all applications to the disaster and emergency services area coordinator, who shall review them, make recommendations thereon, and forward documentation to the review board.

(3) The executive director shall forward all applications to the advisory committee. The advisory committee shall meet during the months of April, August, and December on dates announced by the executive director, to assess applications and compliance and to make recommendations to the executive director with regard to allocations of funds, assessment of compliance, reallocations of funds, release of equipment, reallocation of equipment, and such other matters as may be assigned by the executive director. The advisory committee shall:

(a) Hold only public meetings.

(b) Tape record all meetings and deliberations and retain the tape recordings for a period of one (1) year following the meeting.

(c) Maintain written minutes reflecting the actions of the advisory committee. All applications on file and all other matters pending shall be reviewed during each session and recommendations made thereon to the executive director.

(4) Requests for funding shall be evaluated by the following criteria:

(a) Meeting the minimum eligibility criteria of KRS 39.445 and Section 10 of this Act, unless some aspect thereof has been waived as provided in this Act. In determining membership eligibility, no person may be counted as a member of more than one rescue squad even though he may be available to or a member of more than one rescue squad. If possible, a squad of primary membership shall be determined and the person counted as a member of that squad. If this cannot be determined he shall not be counted as a member of any rescue squad.

(b) Unit and individual training.

(c) Number of rescue responses annually.

(d) Population served.

(e) Geographic area served.

(f) Number, type, and location of other rescue squads in the geographic area served.

(g) Equipment possessed by the squad.

(h) The extent to which the rescue squad integrates its activities with the emergency management structure of the area served.

(5) The advisory committee shall forward the applications together with its recommendations thereon to the executive director for final decision and allocations of funds. The disaster and emergency services administrative officer shall ensure timely payment of the funds.

(6) The executive director shall maintain written reasons with regard to all funding decisions for a period of one (1) year from the time they are announced.

(7) The executive director shall provide applicants with written decisions with regard to their applications.

(8) Decisions and the reasons for any decisions regarding funding shall be made available to any person upon request.

(9) The local disaster and emergency services director shall maintain copies of all applications and decisions thereon in his files for at least five (5) years.

SECTION 12. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) The rescue squad shall order only the approved equipment and no other within fifteen (15) days of the receipt of the grant funds and shall provide a copy of all paid invoices as well as proof of payment (cancelled check, cash paid receipt or similar document), within ninety (90) days of the receipt of the grant funds. An extension of time periods herein may be granted for cause upon written application to the disaster and emergency services area coordinator who may grant or deny such extensions based upon the need for same. Any funds not encumbered or expended during the grant period shall be returned to the state division of disaster and emergency services.

(2) All equipment purchased with rescue aid funds shall be selected from the minimum equipment list unless an exception is approved by the executive director. Optional items shall not be approved until all items on the required list have been acquired.

(3) The rescue squad shall be accountable to the Commonwealth of Kentucky for all equipment purchased in whole or in part with rescue aid funds. All equipment with a purchase price of three hundred dollars ($300) or more shall be assigned a serial number provided by the state division of disaster and emergency services which shall be engraved on the equipment. After five (5) years from the date of purchase, the accountable property may be released to the squad.

(4) Permission to dispose of unserviceable, obsolete, or damaged items, which have not been released to the squad pursuant to subsection (3) of this section, purchased in whole or in part with rescue aid funds may be granted by the executive director of disaster and emergency services. Requests for such action shall be submitted through the local disaster and emergency services director, to the disaster and emergency services area coordinator for transmittal to the executive director.

(5) When a rescue squad is disbanded, loses its local charter to operate, or otherwise becomes (in the determination of the executive director) incapable of performing its duties as provided in KRS 39.445, all equipment purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, shall revert to the state division of disaster and emergency services for re-allocation. In cases in which local funds paid for a portion of the equipment or the equipment has depreciated, the squad may return the equipment to the state division of disaster and emergency services or repay an amount determined appropriate by the executive director. The option of repayment shall exist only upon the disbanding, loss of local charter, or determination of inability of the squad to perform its duties.

(6) In making determinations with regard to equipment which a rescue squad possesses either for funding or accountability purposes, equipment personally owned by members of a rescue squad shall not be counted for any purpose. Personally owned equipment may not be used to fulfill the requirements of the minimum equipment list for the squad.

(7) Equipment which has been purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, shall be subject to inspection upon twenty-four (24) hour notice, by the local disaster and emergency services director, disaster and emergency services area coordinator, or any other employe of the division of disaster and emergency services.

(8) An inspection shall be made when accountable items are reported damaged, in need of replacement, or where there is evidence of misuse. Inspections may also be made upon the request of the disaster and emergency services area coordinator or the executive director.

(9) An annual inspection of equipment purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, may be conducted by the disaster and emergency services area coordinator. Such review shall be made to ensure accountability, proper maintenance and utilization of the equipment.

(10) All funds provided pursuant to Sections 8 through 14 of this Act shall be subject to state audit and rescue squads shall cooperate fully to provide necessary documentation and other support required for such audit.

(11) A rescue squad aggrieved by a decision of the division of disaster and emergency services to withdraw funds or equipment allocated to the rescue squad pursuant to subsection (5) of this section may appeal the decision in the manner provided in Section 6 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY, PART OF 106 KAR 1:030, AS AMENDED) IS CREATED TO READ AS FOLLOWS:

(1) A report shall be made by the rescue squad chief official to the disaster and emergency services area coordinator within forty-eight (48) hours when:

(a) Accountable equipment purchased with rescue aid funds is lost, stolen, or damaged; or

(b) The squad is disbanded, loses its local charter to operate, or is otherwise rendered incapable of performing its duties as outlined in KRS 39.445.

(2) Local disaster and emergency services directors shall maintain a cumulative list of equipment owned by each rescue squad participating in the rescue aid program, denoting those items purchased with rescue aid funds. An updated list shall be made available to the disaster and emergency services area coordinator at the time of each application.

(3) Rescue squads participating in the rescue aid program or who receive workers' compensation benefits through the division of disaster and emergency services shall submit quarterly incident and training reports

reflecting activity or the lack thereof (as appropriate) of the rescue squad to the disaster and emergency services area coordinator within ten (10) days from the end of the quarter. The disaster and emergency services area coordinator shall transmit the reports together with any comments thereon to the division of disaster and emergency services within ten (10) days of his receipt thereof.

SECTION 14. A NEW SECTION OF KRS CHAPTER 900 IS CREATED TO READ AS FOLLOWS:

Local disaster and emergency services organizations, or individuals, or organizations or individuals associated therewith, or rescue squads or members thereof or associated therewith for the purposes of receiving workers' compensation benefits paid by the department of military affairs, shall be covered by such benefits when performing emergency preparedness, response, or recovery functions, with the following limitations:

(1) Such organizations and individuals shall not be covered when performing fund raising functions, unless all proceeds of the function are to be dedicated to the administration or operation of the organization.

(2) Such organizations and individuals shall not be covered when involved in any law enforcement activity, including security or evidence recovery, except for traffic control at an accident scene when such assistance is requested by law enforcement authorities.

(3) Such organizations and individuals, including rescue squads shall not be covered when the primary purpose of the mission is the provision of emergency medical care or first aid. However, coverage shall be extended when:

(a) A rescue squad provides emergency medical transportation when inclement weather or rough terrain prevent a regular ambulance from providing such transportation. Such transportation may be provided only upon request of the appropriate emergency medical services agency. The distance of travel shall be restricted to the nearest appropriate medical facility or ambulance.

(b) Additional personnel or equipment is required to supplement existing emergency medical services which have been overtaxed at an incident which is subsequently declared as a disaster by any official authorized to make such a determination.

(c) A rescue squad provides first aid, or emergency medical care is rendered as a necessary function during a rescue mission and the primary purpose of the mission was the rescue and not the provision of emergency medical care.

(4) Such organizations or individuals shall not be covered when engaging in firefighting unless the firefighting was performed as a secondary function to protect persons involved in a rescue mission.

(5) No person shall be covered unless enrolled on a workers' compensation enrollment form and filed with the disaster and emergency services area coordinator, except when the magnitude of an emergency is so great that a local disaster and emergency services director must solicit additional workers. At such times, the director may develop and maintain a list of workers, to include names, social security account numbers, missions assigned, and dates covered and submit a copy of such list to the disaster and emergency services area coordinator within twenty-four (24) hours of the conclusion of the emergency.

Calendar

HB 564, **HB 496**, **HB 463** and **HB 485** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 405 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

HB 11 and **HB 175** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

HB 509 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 509** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 18, 1988 roll call on **HB 509** - Appendix A.)

HB 509 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 509** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 569 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 569** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 18, 1988 roll call on **HB 569** - Appendix A.)

HB 569 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 569** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 361, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Floor Amendment No. 1 to **HB 361**. Agreed.

Representative Morris moved that **HB 361** as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 18, 1988 roll call on **HB 361** - Appendix A.)

HB 361, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 361**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of the Committee Substitute to **HB 410**. Agreed.

Representative Ridley moved that **HB 410**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See February 18, 1988 roll call on **HB 410** - Appendix

A.)

HB 410, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 410**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved that **HB 319** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 18, 1988 roll call on **HB 319** - Appendix A.)

HB 319 was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 319** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 547, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of Committee Amendment No. 1 to **HB 547**. Agreed.

Representative M. Brown moved that **HB 547**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 18, 1988 roll call on **HB 547** - Appendix A.)

HB 547, as amended, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HB 547**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 507, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 507**. Agreed.

Representative Moberly moved that **HB 507**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 18, 1988 roll call on **HB 507** - Appendix A.)

HB 507, as amended, was passed.

Representative Moberly moved the adoption of the Committee Title Amendment to **HB 507**. Agreed; and the title agreed to.

Representative Moberly moved that the vote by which **HB 507**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 430, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Jones moved the adoption of Committee Substitute to **HB 430**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 2 to **HB 430**.

On the roll call the vote was yeas 6-Ark, Heleringer, Lundergan, Mason, Overstreet, Worthington. Nays 75-Adams, Adkins, Allen, Altman, Ballard, Blevins, Bronger, J. Brown, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Turner, Walker, Will, Yates.

Floor Amendment No. 2 to **HB 430** was rejected.

Representative Moberly moved that **HB 430**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 2. (See February 18, 1988 roll call on **HB 430** - Appendix A.)

HB 430, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Jones moved that the vote by which **HB 430**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 99, by Representative Donnermeyer: A RESOLUTION honoring Victoria Principal.

Representative Donnermeyer moved the adoption of following **HR 99**:

HR 99, A RESOLUTION honoring Victoria Principal.

WHEREAS, Victoria Principal has achieved resounding success as an actress and entertainer; and

WHEREAS, Victoria Principal's starring role on the CBS television series "Dallas" has brought attention to her healthy good looks and has earned her national recognition as a proponent of health and fitness; and

WHEREAS, Victoria Principal's first book, *The Body Principal* was published in 1983 and a subsequent book, *The Beauty Principal*, published in 1984 further established her as a leading advocate of health and fitness; and

WHEREAS, since May of 1983, Victoria Principal has been National Campaign Chairperson for the National Arthritis Foundation, a position that has required her to sacrifice career and family, to tape public service announcements, make speeches, and speak out at media interviews; and

WHEREAS, while in the position of National Campaign Chairperson for the National Arthritis Foundation, Victoria Principal has twice met with President Reagan to draw attention to the cause of the foundation; and

WHEREAS, Victoria Principal has lobbied the White House and Congress on behalf of a separate Arthritis Institute within the National Institute of Health and presently is working for increased government funding for arthritis research; and

WHEREAS, arthritis, the nation's number one crippler, has made its effects known upon the family of Victoria Principal;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives heartily welcomes Victoria Principal to the Commonwealth of Kentucky and commends her on her work to draw attention to the needs of the Arthritis Foundation and those suffering the painful consequences of arthritis.

Section 2. That a copy of this resolution be delivered to Victoria Principal by the Clerk of the House.

HR 99 was adopted by voice vote.

HB 429, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 429**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 429**. Rejected.

Representative Long moved that **HB 429**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 18, 1988 roll call on **HB 429** - Appendix A.)

HB 429, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 429**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 480 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 480** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 18, 1988 roll call on **HB 480** - Appendix A.)

HB 480 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 480** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 432, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representatives B. Jones moved the adoption of the Committee Substitute to **HB 432**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 432**.

On the roll call the vote was yeas 18-Blevins, J. Brown, Burch, Cline, Crupper, Gedling, J. Harper, Heleringer, A. Jones, Little, Lundergan, Mack, Mason, Overstreet, Richards, Riner, Seum, Worthington. Nays 61-Adams, Adkins, Allen, Altman, Ark, Ballard, Bronger, M. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Hancock, K. Harper, Hatcher, Hoover, Jackson, Johnson, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Long, Lyne, Maggard, McBee, McElroy, Meyer, Napier, Nett, Noe, Northup, O'Brien, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, Robinson, Scorsone, Siler, R. Smith, Strong, Stumbo, Turner, Will, Yates.

Floor Amendment No. 1 to the Committee Substitute to **HB 432** was rejected.

Representative B. Jones moved that **HB 432**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 18, 1988 roll call on **HB 432** - Appendix A.)

HB 432, by way of Committee Substitute, was passed.

Representative B. Jones moved the adoption of the Committee Title Amendment to **HB 432**. Agreed; and the title was agreed to.

Representative B. Jones moved that the vote by which **HB 432**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 112** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:42 p.m.)

Orders of the Day (continued)

SB 169, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **SB 169** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 18, 1988 roll call on **SB 169** - Appendix A.)

SB 169 was passed and the title agreed to.

Representative Blevins moved that the vote by which **SB 169** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 702, by Representative Lear: AN ACT relating to the service of search warrants.

HB 703, by Representatives Hatcher and Bronger: AN ACT relating to the Auditor's Scholarship Program.

HB 704, by Representative Hatcher: AN ACT relating to substance abuse.

HB 705, by Representative Donnermeyer: AN ACT relating to workers' compensation.

HB 706, by Representative Gray: AN ACT relating to outdoor advertising.

HB 707, by Representative Ackerson: AN ACT relating to motor vehicle dealers.

HB 708, by Representatives Blevins, Barrows and Worthington: AN ACT relating to the financing of school buildings and declaring an emergency.

HB 709, by Representative Ridley: AN ACT relating to surface coal mining.

HB 710, by Representatives LeMaster, Lear, Bronger, McElroy, Gedling, Crupper, L. Clark, Layman, Adkins, Lile, Lundergan, Donnermeyer, B. Richardson and Jackson: AN ACT relating to liens.

HB 711, by Representative Hancock: AN ACT relating to roads and making an appropriation therefor.

HB 712, by Representatives B. Smith, Farrow, Altman and Turner: AN ACT relating to the retail sale of agricultural products.

HB 713, by Representatives B. Smith, O'Brien, Altman and Strong: AN ACT relating to insurance.

HB 714, by Representatives Mason, Little and Ridley: AN ACT relating to pesticides.

HB 715, by Representatives B. Smith and Richards: AN ACT relating to handicapped parking permits.

HB 716, by Representatives Little, Deskins and Richards: AN ACT relating to the state board of education.

HB 717, by Representative Barrows: AN ACT relating to consumer reporting agencies.

HB 718, by Representative Barrows: AN ACT relating to real property transfers.

HB 719, by Representative Barrows: AN ACT relating to property tax administration.

HB 720, by Representative Barrows: AN ACT relating to property taxation.

HB 721, by Representative Donnermeyer: AN ACT relating to misdemeanor and violation records.

HB 722, by Representative M. Brown: AN ACT relating to hazardous waste.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 611**, **HB 631**.

Health and Welfare: **HB 521**, **HB 447**, **HB 595**, **HB 621**.

Banking and Insurance: **HB 577**.

Education: **HB 617**, **HB 655**, **SB 49**, **SB 72**, **HJR 81**.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Health and Welfare: **HB 373**.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 638**, **HB 656**, with Committee Amendment attached thereto, and **HB 657**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 638, AN ACT relating to the disposal of chemical agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, within thirty (30) days after the effective date of this Act, the cabinet shall list the following substances as hazardous wastes for the purposes of regulation of the generation, treatment, storage, and disposal of the wastes under the delegated authority of the resource conservation and recovery act, 42 U.S.C. 6901 et seq.: GB (isopropyl methyl phosphonoflouridate); VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate); and H (bis(2-chloroethyl) sulfide) and related compounds.

(2) In addition to the requirements of KRS 224.866(1), the cabinet shall consider the criteria set forth in this subsection in making a determination to issue, deny or condition a permit for any person desiring a permit to construct or operate a hazardous waste site or facility for treatment, storage or disposal of any of the substances identified in subsection (1) of this section. The applicant shall affirmatively demonstrate, and the cabinet shall find prior to issuance, conditional issuance or denial of the permit, that:

(a) The proposed treatment or destruction technology has been fully proven in an operational facility of scale, configuration, and throughput comparable to the proposed facility, for a period of time sufficient to provide assurance of ninety-nine and ninety-nine millionths percent (99.999999%) destruction or neutralization of each substance proposed to be treated or destroyed;

(b) Monitoring data from a comparable facility reflects the absence of emissions from stack or fugitive sources, including but not limited to the products of combustion and incomplete combustion, which alone or in combination present any risk of acute or chronic human health effect or adverse environmental effect; and

(c) Provision has been made for development and funding of sufficient training, coordination and equipment for state and local emergency response personnel, including the health, police, fire and emergency response fields, to assure the ability of the community to respond to releases from such a facility, including development and funding of an evacuation plan by the applicant which demonstrates the capability of removing individuals from the largest area at risk from a worst-case release.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

HB 656, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed

highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the natural resources and environmental protection cabinet;

(11) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "No more stringent than" means that administrative regulations which have been or in the future are promulgated by the cabinet, or policies, standards, or procedures adopted by the cabinet, either formally or informally, shall allow those who are subject to this chapter to operate and conduct their operations in the same manner as if they were operating in a state which has not accepted and is not administering its own program pursuant to the federal Surface Mining Control and Reclamation Act of 1977, PL 95-87; it further means that if another state has accepted and is administering its own program pursuant to the Surface Mining Control and Reclamation Act of 1977, PL 95-87, and has adopted as a part of its permanent program, statutes or administrative regulations which allow operators in the state to perform in a less costly or more efficient manner, the administrative regulations adopted under this chapter shall allow operators to operate in a like manner.

SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

To conform the current administrative regulations issued by the cabinet pursuant to this chapter, the cabinet shall undertake a comprehensive review of the administrative regulations issued by it pursuant to this chapter and shall compare its administrative regulations with those issued by the federal office of surface mining reclamation and enforcement and by all states contiguous to Kentucky and shall, prior to July 1, 1989, promulgate amendments to its regulations consistent with the legislative intent contained in Section 1 of this Act, and in KRS 350.465(a) and KRS 350.069. Nothing contained herein shall be interpreted as being inconsistent with, superceding, modifying, or amending other chapters of the Kentucky Revised Statutes.

The Committee Amendment No. 1 to **HB 656** is as follows:

Amend printed copy of **HB 656** on page 6, line 21, by inserting "*coal producing*" before "*state*";

And on line 24, by inserting after "*PL 95-87*", the following: "*if said regulations would allow operators to perform in a less costly or more efficient manner*";

And on page 7, line 16, by deleting "*1989*" and replacing it with "*1991*".

HB 657, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.093 is amended to read as follows:

(1) As determined by regulations of the cabinet, time and distance limits shall be established requiring

backfilling, grading and planting to be kept current, such that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; provided however that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specified areas if the operator can demonstrate that said deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080;

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant has the burden in establishing the need for such deferment. The applicant must demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but in no event shall the aggregate deferral period exceed thirty (30) months, nor shall the deferral extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to backfill as herein provided for until such drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of such locations shall be described and designated on the map attached thereto; provided, that where the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. Such bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan *additional bond or collateral for the applicable permit shall be released.* When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; such amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from such soil surveys as may be required to be included in the permit application. Where a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, *or collateral,* but not before the expiration of the period specified for operator responsibility. Provided, however, that no bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) *Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.*

(a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for such release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, must begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

(b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of such advertisement shall be placed with the bond release application within thirty (30) days after such advertisement.

(c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet may undertake the notification requirements set forth in this subsection.

(d) Upon the filing of an application for bond release by a permittee, or the initiation of such release by the cabinet, the cabinet shall notify, within thirty (30) days of such filing or initiation, [~~Upon application by a permittee for total or partial bond release, the cabinet shall notify~~] the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) *Upon the filing of any partial or total bond release request by a permittee* [~~(a) Upon receipt of the notification and request~~], the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution.

(7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within *thirty-five (35) days following the last public advertisement required by subsection (5) of this section, provided that* [~~sixty (60) days from the filing of the request, if~~] no public hearing is held pursuant to subsection *(9)* [~~(7)~~] of this section*;*[~~,~~] and if there has been a public hearing held pursuant to subsection *(9)* [~~(7)~~] of this section, within thirty (30) days thereafter.

(8)[~~(b)~~] If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve said release and allowing opportunity for a public hearing. *Provided, however, that in no event shall the cabinet disapprove an application for bond release or take action to forfeit a bond based upon failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.*

(9)[~~(7)~~] Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

The Committee Amendment No. 1 to **HB 657** is as follows:

Amend printed copy of **HB 657** on page 5, line 15, by deleting "*may*'+and substitute therefor "*shall*";

And on page 6, line 22, by deleting "*may*'+and substitute therefor "*shall*";

And on page 7, lines 19 through 21, delete all of the underlined material and substitute therefor: "*five (5) days following receipt of proof of public advertisement as required in subsection 5(b), or the end of the thirty (30) day public comment period, whichever is later*";

And on page 7, line 22, by deleting the strikethroughs in "~~; if~~'+and delete the "]" and insert a "]" after "~~request~~";

And on page 8, lines 7 through 9, by deleting "*disapprove an application for bond release or take action to forfeit a bond based upon*'+and substitute therefor "*continue to hold a surety bond where a forfeiture has occurred solely as a result of a*".

The Committee on Business Organizations and Professions reported **HB 456**, with Committee Amendments attached thereto, **HB 642** and **HB 653** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 456, AN ACT relating to architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323.033 is amended to read as follows:

(1) Except as otherwise provided *in this chapter* [~~hereinafter~~], the following buildings, or additions to existing buildings, classified by use group shall require the services of an architect licensed in the Commonwealth of Kentucky.

(a) Assembly use group having a capacity of one hundred (100) persons or more;

(b) Business use group having a capacity of one hundred (100) persons or more;

(c) Institutional use group, *including educational,* regardless of capacity;

(d) Mercantile use group having a capacity of one hundred (100) persons or more;

(e) Residential use group of more than twelve (12) dwelling units or having a capacity of fifty (50) persons or more;

(f) Mixed use group containing one (1) or more of the use group classifications and capacities listed under paragraphs (a) through (e) of this subsection.

(2) Alterations [~~or new construction~~] requiring compliance with the Kentucky Building Code for any building containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require the services of an architect licensed in the Commonwealth of Kentucky; except that, when such alterations [~~or new construction~~] predominantly involve primarily structural components or mechanical or electrical systems, services may be performed by one (1) or more licensed professional engineers.

(3) Buildings, or additions to existing buildings, containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require, in addition to the services of an architect, the services of one (1) or more licensed engineers.

(4) The following buildings and additions to existing buildings, classified by use group, shall require the services of either an architect or a professional engineer registered in the Commonwealth of Kentucky.

(a) Factory and industrial use group having a capacity of one hundred (100) persons or more;

(b) High hazard use group, regardless of capacity;

(c) Storage use group having a capacity of one hundred (100) persons or more*; or*

(d) Utility and miscellaneous use groups having a capacity of one hundred (100) persons or more.

Section 2. KRS 323.050 is amended to read as follows:

(1) To obtain a license to practice architecture in Kentucky applicants must satisfactorily pass such examinations as are prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) Must be of good moral character;

(b) Must be a legal resident of the Commonwealth of Kentucky except as otherwise prescribed by board regulations [~~and must be at least twenty-five years of age~~]; and

(c) Must *hold a professional degree in architecture accredited by the national architectural accrediting board (NAAB)* [~~be a graduate of an accredited school of architecture~~], or the equivalent thereof as determined by board regulations, with such additional experience as the board may prescribe and approve.

(3) Examinations shall be given at least annually, the time and place to be established by the board.

Section 3. KRS 323.080 is amended to read as follows:

(1) Fees for the following services shall be established by the rules of the board, and in no case shall they exceed the following schedule:

(a) For an examination	*$100.00* [~~$50.00~~]
(b) For a license certificate upon satisfactorily passing the examination	25.00
(c) For the restoration of a voluntarily surrendered license	50.00
(d) For a license to an architect satisfactorily licensed in another state or country	75.00
(e) For reinstatement of a license revoked for failure to pay the annual renewal fee *or suspended by the board* in addition to application and arrears as determined by the board	50.00
(f) Renewal certificate	35.00

(2) The proper fee as prescribed above shall be paid to the board, and shall not be refunded in whole or in part.

(3) Applicants for the examination shall be charged, at actual cost to the board, for the use of each set

of examination questions required.

Section 4. KRS 323.095 is amended to read as follows:

(1) Each architect licensed for practice within the commonwealth shall secure an embossed circular seal of the design prescribed by regulation of the board.

(2) All working drawings, specifications and reports prepared by, or under the supervision of the individual, partnership or firm, must bear the imprint of this seal.

(3) No architect shall sign or affix his seal to any drawings, specifications or reports which have not been prepared *by him personally or* under his immediate supervision.

Section 5. KRS 323.110 is amended to read as follows:

(1) (a) All architects desiring to continue practice shall annually, prior to July 1, secure from the board a renewal certificate upon the payment of the prescribed fee. Not later than June 15 of each year the board shall notify by mail all architects of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the architect shall furnish the information required by such form.

(b) Failure of any architect to secure his renewal certificate within sixty (60) days after July 1 shall constitute automatic revocation of his license.

(c) The board may *reissue* [~~restore~~] a license that has been revoked for failure to pay the renewal fee upon proper application as determined by the board and the payment of all delinquent fees as directed.

(2) A licensed architect may voluntarily surrender his license to the board and thereby be relieved of the annual renewal fee. After surrendering his license, he shall not be known as a licensed architect and shall desist from the practice thereof. Within five (5) years from the time of surrender of the license he may again qualify for a license without examination by the payment of the required fee and current renewal fee. If five (5) years thereafter have elapsed, he shall return to the status of a new applicant.

Section 6. KRS 323.120 is amended to read as follows:

(1) The board may refuse to *issue, reissue,* renew or may *issue a public or private reprimand or may probate,* suspend or revoke the license of any architect to practice architecture in the commonwealth of Kentucky for any of the following reasons:

(a) Gross incompetency or gross negligence in the planning or construction of buildings, as determined by the board;

(b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;

(c) Conviction of a felony;

(d) Fraudulent or dishonest architectural practice;

(e) Use of false evidence or misrepresentations in an application for licensing;

(f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employes under his supervision.

(2) The board shall revoke the license of an architect who practices architecture while his license is suspended.

(3) The board at its discretion, in addition to other penalties, may impose a civil penalty not to exceed

three thousand dollars ($3,000).

Section 7. KRS 323.130 is amended to read as follows:

(1) *In any action taken pursuant to KRS 323.120, the board shall conduct* [~~No license shall be revoked or suspended without~~] a hearing. The board may proceed against a license on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if true would warrant *action pursuant to KRS 323.120* [~~suspension or revocation of a license~~], the board shall proceed against the licensee [~~within three (3) months~~].

(2) A written notice stating grounds for possible *disciplinary action affecting* [~~suspension or revocation of~~] the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the *respondent* [~~accused~~] not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the *respondent* [~~accused~~] last known to the board.

Section 8. KRS 323.140 is amended to read as follows:

(1) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(2) At any hearing the *respondent* [~~accused~~] may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The *respondent* [~~accused~~] shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

(4) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(6) A copy of an order *entered herein* [~~suspending or revoking a license~~] shall be served upon the licensee by certified mail, return receipt requested immediately upon entry by the board. Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 9. KRS 323.145 is amended to read as follows:

(1) Any person whose license *or application is affected by the board's order may appeal from such order* [~~is revoked by the board may appeal from the order of revocation~~] by filing in the Franklin Circuit Court a petition for appeal and a copy of the order of the board within *thirty (30)* [~~sixty (60)~~] days of the date of entry of the order. He shall make bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The licensee shall cause a copy of the petition for appeal to be served upon the secretary of the board.

(2) Within thirty (30) days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of the parties, the record may be shortened.

(3) The filing of the petition for appeal shall not stay enforcement of the order; but upon motion of appellant the Franklin Circuit Court, in its discretion, may order a stay pending decision of the appeal. If

the time for renewal of the license occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court shall set the case for hearing without a jury and dispose of the appeal in a summary manner, being confined to the record made before the board except that new evidence may be introduced as to fraud. The court may hear oral arguments and receive written briefs. The court may affirm or set aside the board's order, or may remand the case to the board for further evidence, but shall be limited in making its decision to determining whether or not:

(a) There is any substantial evidence to support the order; or

(b) The board acted without or in excess of its power; or

(c) The order appealed from was procured by fraud.

(5) Any aggrieved party may secure a review of an adverse judgment of the Franklin Circuit Court under this chapter by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 10. KRS 323.150 is amended to read as follows:

The board shall consist of *six (6)* [~~five (5)~~] members *five (5)* [~~four (4)~~] of whom shall be appointed by the governor. The *sixth* [~~fifth~~] member of the board shall be the *head of any NAAB accredited architectural curriculum established in the Commonwealth of Kentucky, who shall be an ex officio member with no voting rights* [~~dean of the college of engineering of the University of Kentucky. But if at any time a five-year professional curriculum of architecture is established in the commonwealth of Kentucky, the head of such curriculum shall replace the dean of the college of engineering of the University of Kentucky as a member of the board~~].

Section 11. KRS 323.170 is amended to read as follows:

Four (4) [~~Three (3)~~] members of the board appointed by the governor shall be architects registered in the Commonwealth of Kentucky and shall have been in the active practice of architecture for at least ten (10) years immediately preceding their appointment, and shall have been residents of this Commonwealth for at least five (5) years immediately preceding their appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

Section 12. KRS 323.190 is amended to read as follows:

Each member of the board shall receive an amount not to exceed *seventy-five dollars ($75.00)* [~~twenty-five dollars ($25.00)~~] for each day or part thereof spent in the performance of his official duties, including time spent in necessary travel, and in addition, shall be reimbursed for all proper traveling and incidental expenses incurred in connection with said duties.

Section 13. KRS 323.990 is amended to read as follows:

Any person who violates any provision of this chapter shall be fined not less than *five hundred dollars ($500)* [~~one hundred dollars ($100)~~] nor more than *three thousand dollars ($3,000)* [~~five hundred dollars ($500)~~], or imprisoned not more than three (3) months, or both.

Section 14. KRS 323.030, Persons and buildings to which chapter does not apply, is repealed.

The Committee Amendment No. 1 to **HB 456** is as follows:

Amend printed copy of **HB 456** on page 11, line 6, after the word “*with*’+by deleting the word “*no*“

The Committee Amendment No. 2 to **HB 456** is as follows:

Amend printed copy of **HB 456** on page 12, after line 14, by adding the following:

Section 14. KRS 323.031 is amended to read as follows:

(1) If the drawings and specifications are signed by the author thereof with the true titles of their occupations as may be required by law, this chapter does not apply to:

(a) Any building which is to be used for farm purposes only;

(b) Any building classified by use group other than those listed under KRS 323.033;

(c) Any structure not classified as a building by KRS 323.010(4).

(2) Provisions of this chapter shall not apply to:

(a) Any individual, partnership, or firm acting solely as a consultant to an architect licensed in the Commonwealth;

(b) An architect or other person acting solely as an officer or employe of the United States government.

(3) A licensed professional engineer may prepare plans and specifications of and supervise the construction of structures as an incident to the practice of his own profession.

And by renumbering subsequent sections accordingly.

HB 642, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.300 is amended to read as follows:

No retailer of distilled spirits and wine shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit, except that a bona fide private club, restaurant or hotel holding a license may sell on reasonable credit to its members, customers or registered guests.[~~; provided, however,~~] Sales by retail drink *or distilled spirits and wine retail package licensees* [~~when purchased at a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) people at tables~~] may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue his own credit cards or extend a personal credit to patrons.

HB 653, AN ACT relating to cosmetologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.050 is amended to read as follows:

(1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:

(a) Is of good moral character and temperate habit, and at least sixteen (16) years of age;

(b) Has at least two (2) years high school education or its equivalent;

(c) Has graduated from a licensed school of cosmetology;

(d) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and

(e) Has paid a fee of twelve dollars ($12).

(2) The cosmetologist board shall issue a cosmetologist license to any person who:

(a) Has at least two (2) years high school education, or its equivalent;

(b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and

(d) Has paid a fee of fifteen dollars ($15).

(3) The cosmetologist board shall issue a license to act as a manicurist to any person who:

(a) Is of good moral character and temperate habit;

(b) Has completed satisfactorily a manicuring course of study of three hundred (300) hours in a licensed school of cosmetology;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a manicurist;

(d) Has two (2) years of high school education or its equivalent; and

(e) Has paid a fee of twelve dollars ($12).

(4) *(a)* The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application provided by the board, accompanied by a fee of twenty-five dollars ($25). The board may refuse to issue such a license upon the failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto; however, an owner who is not a licensed cosmetologist shall have a licensed cosmetologist as manager of said salon at all times. In the event of a change of owner or manager or location, a new license must be purchased.

(b) An establishment which leases or rents stalls to independent operators shall be considered as one (1) establishment for the purposes of licensing and regulations, and shall pay a single twenty-five dollar ($25) license fee.

(5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:

(a) Has paid a fee of twenty-five dollars ($25);

(b) Has a high school education and one (1) year experience as a licensed cosmetologist;

(c) Has submitted a joint application signed also by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall certify to the board the completion of one thousand (1,000) hours.

(6) The cosmetologist board shall issue a license to teach cosmetology to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has held an apprentice instructor license for at least six (6) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee of thirty-five dollars ($35).

(7) The cosmetologist board may issue a license to operate a school of cosmetology to any person, firm or corporation who or which:

(a) Has complied with the rules and regulations of the board including, but not limited thereto, the necessary equipment, supplies and facilities;

(b) Has furnished evidence or proof deemed necessary by the board in its sound discretion that the granting of said license to operate a school of cosmetology is needed and that the person, firm or corporation is otherwise qualified to operate a school of cosmetology, and that it is the purpose of the applicant to establish a bona fide school for the education and training of competent cosmetologists and that said applicant will employ a sufficient number of licensed instructors of cosmetology to conduct such school;

(c) That the licensee shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to conduct such school. The designated manager as defined herein shall be approved by the board before a license may be issued;

(d) Complies with the rules and regulations of the board including, but not limited thereto, regarding courses, curriculum and hours of instruction;

(e) Otherwise complies with this chapter;

(f) Has paid a fee of one thousand dollars ($1,000);

(g) Has been a resident of Kentucky for five (5) years if the applicant is an individual. If not, the firm or corporation shall be a Kentucky corporation or is licensed or qualified to do business in Kentucky and shall be in existence for a period of at least five (5) years before said firm or corporation may be eligible to file an application;

(h) Any student enrolling in said school shall pay a fee of five dollars ($5) to the board before enrollment shall be allowed; and

(i) The transfer of any license to operate a school of cosmetology shall require the approval of the board and a new application filed with the board and a fee of one thousand dollars ($1,000) paid.

(8) Licenses issued by the board shall be renewed beginning July 1 through July 31 of each year. Any license shall be renewed by the board upon receipt, provided the application is completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section and the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto. Any license application received or postmarked later than July 31 shall be considered expired and the appropriate restoration fee required by subsection (11) of this section shall be applicable for restoration of such license;

(9) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Apprentice cosmetologist — $10;

(b) Cosmetologist — $12;

(c) Manicurist — $10;

(d) Beauty salon — $15;

(e) Apprentice instructor of cosmetology — $15;

(f) Instructor of cosmetology — $25; and

(g) Cosmetology school — $100.

(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) Apprentice cosmetologist — $25;

(b) Cosmetologist — $35;

(c) Manicurists — $20;

(d) Instructor of cosmetology — $50;

(e) Cosmetologist out-of-state — $75;

(f) Instructor out-of-state — $150; and

(g) Where examination is not required by the board, the fee shall be $50.

(11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) Apprentice cosmetologist — $50;

(b) Cosmetologist — $50;

(c) Manicurist — $50;

(d) Beauty salon — $50;

(e) Cosmetology school — $500;

(f) Instructor — $75;

(g) Apprentice instructor — $50.

(12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Cosmetologists shall retake and pass examination in practical only;

(b) Apprentice cosmetologist shall complete one hundred and fifty (150) additional hours training in a licensed school of cosmetology and pass prescribed examination;

(c) Instructor of cosmetology shall retake and pass both the practical and science examination;

(d) Manicurist shall retake and pass examination, practical only; and

(e) The appropriate restoration fee as set forth in subsection (11) shall be required.

(13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers and cosmetologists shall pay a fee of thirty-five dollars ($35) for a permit for ten (10) days; but this fee is not required to be paid by guest artists performing before a nonprofit recognized professional

hairdressers and cosmetologists group.

(14) The fee for certifications shall be five dollars ($5).

(15) The fee for duplicate license shall be five dollars ($5).

Motions, Petitions and Communications (continued)

Representative B. Richardson moved that the vote by which **HB 317** was defeated be reconsidered.

On the roll call the vote was yeas 55-Ackerson, Adams, Adkins, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bruce, Callahan, Casebier, Castleman, Crupper, Curd, Ford, Gedling, Geveden, Gregory, Hancock, Handy, Hoover, Hourigan, Jackson, A. Jones, Kerr, Lefevers, Lile, Long, Mack, Maggard, McElroy, Moberly, Morris, Nett, Noland, Northup, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Seum, B. Smith, Strong, Stumbo, Todd, Turner, White. Nays 5-L. Clark, Guenthner, K. Harper, Heleringer, Will.

The motion that the vote by which **HB 317** was defeated be reconsidered was adopted.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 319**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 169** and **HB 469**. Agreed.

Representative Todd moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Todd moved that he be recorded as voting "yea" on **HB 361**, **HB 319** and **HB 410**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 81, Representative K. Harper; **HB 204**, Representatives J. Harper, Lefevers, Preston, P. Richardson, Strong, Turner; **HB 381**, Representative Scorsone; **HB 382**, Representative Scorsone; **HB 383**, Representative Scorsone; **HB 384**, Representative Scorsone; **HB 385**, Representative Scorsone; **HB 429**, Representative Lile; **HB 430**, Representative Lile; **HB 432**, Representative Lile; **HB 480**, Representative Lile; **HB 593**, Representative LeMaster; **HB 625**, Representative Lefevers; **HB 636**, Representatives Ford, K. Harper.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Title Amendment to **HB 408**, by Representative Farrow:

Amend printed copy of **HB 408** by amending the title to read "AN ACT relating to retirement programs.".

Floor Amendment No. 1 to CS to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 16, by inserting after the word "*court*" the words "*; or in urban counties the urban county legislative body,*"; and on page 4, line 24, by inserting after "*sheriffs*'+the words "*in counties containing a city of the first class*"; and

on page 4, line 26, by inserting after "*thereof,*" the words "and in urban counties shall be fixed by the urban county legislative body"; and on page 5, line 3, by placing an opening bracket before the word "and" and a closing bracket after the word "government" and by striking through the bracketed language; and on page 5, line 7, by inserting after the word "thereof" the words "*, and in urban counties the amount shall be fixed by the urban county legislative body*"; and on page 5, line 16, by inserting after the word "court" the words "*or the urban county legislative body, as the case may be*"; and on page 5, line 17, by inserting after "the" the word "*appropriate*'+and by bracketing and striking through "fiscal court"; and on page 6, line 21, by placing an opening bracket before "and"; and on page 6, line 22, by placing a closing bracket after "government" and by striking through the bracketed language; and

on page 7, line 1, by inserting after "thereof." the words "*In urban counties the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon the motion of each officer by the urban county legislative body.*"; and on page 7, line 6, by inserting after the first use of the word "court" the words "*or the urban county legislative body, as the case may be,*'+and by inserting after the second use of the word "the" the word "*appropriate*'+and by bracketing and striking through the second use of the words "fiscal court"; and on page 10, line 21, by inserting after the word "court" the words "*, or in urban counties by the urban county legislative body,*'+and on page 11, line 6, by inserting after "*court*'+the words "*or urban county legislative body*"; and on page 11, line 21, by inserting after the word "*court*'+the words "*or urban county legislative body*".

Floor Amendment No. 2 to Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 16, by inserting after "*court*'+the words: "*, or in urban counties the urban county legislative body,*"; and on page 4, line 21, by deleting line 21 after the word "*herewith.*"; and on page 4, by deleting lines 22 through 26; and on page 5, by deleting line 1; and on page 5, line 2, by inserting an opening bracket before "In"; and on page 5, line 7, by inserting a closing bracket after "thereof." and by striking through all language between the opening and closing brackets; and on page 5, line 13, by bracketing and striking through the word "other"; and on page 5, line 16, by inserting after the word "court" the words "*or the urban county legislative body, as the case may be,*"; and on page 5, line 17, by inserting after the word "the" the word "*appropriate*'+and by bracketing and striking through the words "fiscal court"; and

on page 6, line 20, by placing an opening bracket before the word "In"; and on page 7, line 1, by placing a closing bracket after the word "thereof." and by striking through all language within the brackets on page 6 and page 7; and on page 7, line 1, by bracketing and striking through the word "other"; and on page 7, line 6, by inserting after the first use of the word "court" the words "*or the urban county legislative body, as the case may be,*"; and on page 7, line 6, by inserting after the second use of the word "the" the word "*appropriate*'+and by bracketing and striking through the second use of the words "fiscal court"; and on page 10, line 21, by inserting after the word "*court*'+the words "*, or in urban counties by the urban county legislative body,*"; and on page 11, line 6, by inserting after the word "*court*'+the words "*or urban county legislative body*"; and on page 11, line 21, by inserting after the word "*court*'+the words "*or urban county legislative body*".

Floor Amendment No. 1 to **HCR 69**, by Representative Reinhardt:

Amend printed copy of **HCR 69** on page 2, line 11, after the word "area" delete semicolon and insert comma; and On page 2, line 11, after the word "and" insert the following: "the effect on land and water resources; and".

The Clerk announced the following meetings:

The Committee on Transportation, February 19, 1988, 8:30 a.m.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 19, 1988.

On the roll call the vote was yeas 83-Adams, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Turner, Walker, White, Will, Worthington, Yates. Nays 7-Bronger, Cline, Deskins, Heleringer, LeMaster, Overstreet, Preston.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 19, 1988

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 18, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 193**, **SB 209**, **SB 210**, **HCR 6** and **HJR 29**.

HB 202 returned with the following message: The Senate has receded from its Amendment No. 1 to **HB 202** and is respectfully returning same to this Honorable Body for enrollment.

SB 53 returned with the following message: The Senate has refused to concur in the House Amendment to **SB 53** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

Introduction of Bills and Resolutions

HB 723, by Representative Johnson: AN ACT relating to insurance.

HB 724, by Representatives Gedling and Noland: AN ACT relating to tax collections.

HB 725, by Representative B. Jones: AN ACT relating to real estate brokers and salesmen.

HB 726, by Representative Farrow: AN ACT relating to a runoff primary.

HB 727, by Representative Meyer: AN ACT relating to judicial nominating commissions.

HB 728, by Representative Ackerson: AN ACT relating to sales representatives.

HB 729, by Representative Noe: AN ACT relating to coal mining.

HR 100, by Representative Burch: A RESOLUTION encouraging organ donation as the "gift of life."

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: **HB 694**.

Business Organizations and Professions: **HB 593**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 701**, **HB 712**.

Appropriations and Revenue: **HB 711**, **HB 720**.

Banking and Insurance: **HB 713**, **HB 717**.

Education: **HB 708**, **HB 716**.

Energy: **HB 698**.

Health and Welfare: **HB 704**.

Judiciary-Civil: **HB 710**, **HB 714**, **HB 718**.

Judiciary-Criminal: **HB 702**, **HB 721**.

Labor and Industry: **HB 705**.

Natural Resources and Environment: **HB 709**, **HB 722**.

State Government: **SB 192**, **HB 699**, **HB 700**, **HB 703**, **HB 719**.

Transportation: **HB 706**, **HB 707**, **HB 715**.

Report of Committees

The Committee on Rules reported **HB 309**, **HB 230**, **HB 462**, **HB 652**, **HB 463**, **HB 485** and **HB 564** have been posted for passage in Orders of the Day, February 22, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, February 22, 1988: **HB 450** and **HB 405**.

The Committee on Rules reported the following Bill has been recommitted:

Judiciary-Civil: **SB 71**.

Calendar

HB 18, **HB 408**, **HB 560**, **HB 583**, **HB 590**, **HB 641**, **SB 20**, **HB 638**, **HB 656** and **HB 657** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 17, **HB 456**, **HB 642** and **HB 653** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Burch moved the adoption of the following **HR 100**:

HR 100. A RESOLUTION encouraging organ donation as the "gift of life."

WHEREAS, twelve-year-old Kentuckian Leah Hogan Halsey died on the fifteenth of July, 1986, while awaiting a vainly sought donor heart; and

WHEREAS, a determination to prevent similar tragic losses resulted in Kentucky's General Assembly's passage of 1986 **HB 5**, which encourages organ donation and promotes the locating of potential donors; and

WHEREAS, as a condition of licensure, **HB 5** requires hospitals to establish protocol for organ procurement for transplants;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Kentuckians be hereby reminded that their legislators, as well as law enforcement and medical personnel, are working to facilitate the organ transplant process, and wish to encourage all citizens to do all they can to give "the gift of life."

Section 2. That this request is made in memory of Leah Hogan Halsey.

Section 3. That a copy of this resolution be sent to Leah's mother, Maureen Halsey Wright, 232 Cherry Knoll Place, Frankfort, Kentucky, 40601.

HR 100 was adopted by voice vote.

HJR 28, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HJR 28**. Agreed.

Representative Burch moved that **HJR 28**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 19, 1988 roll call on **HJR 28** - Appendix A.)

HJR 28, by way of Committee Substitute, was passed.

Representative Burch moved the adoption of the Committee Title Amendment to **HJR 28**. Agreed; and title agreed to.

Representative Burch moved that the vote by which **HJR 28**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HR 72** be adopted.

HR 72 was adopted by voice vote.

HB 504 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 504** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 19, 1988 roll call on **HB 504** - Appendix A.)

HB 504 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 504** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HCR 48** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 19, 1988 roll call on **HCR 48** - Appendix A.)

HCR 48 was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HCR 48** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HB 576**. Agreed.

Representative Scorsone moved that **HB 576**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See February 19, 1988 roll call on **HB 576** - Appendix A.)

HB 576, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 576**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 81, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 81**. Agreed.

Representative Kerr moved that **HB 81**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 3. (See February 19, 1988 roll call on **HB 81** - Appendix A.)

HB 81, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 81**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 101, by Representative B. Smith: A RESOLUTION honoring Representative Jody Richards on the occasion of his fiftieth birthday.

Representative B. Smith moved the adoption of the following **HR 101**:

HR 101. A RESOLUTION honoring Representative Jody Richards on the occasion of his fiftieth birthday.

WHEREAS, Representative Jody Richards has served this House with great effectiveness and commitment for the past twelve years; and

WHEREAS, Representative Richards has been chosen to serve his party as caucus chairman for the current legislative session; and

WHEREAS, Representative Richards attains this Saturday a sobering milestone of life, the occasion of his fiftieth birthday; and

WHEREAS, Representative Richards is unfortunately forced to share the glory on February 20 with Patty Hearst, Senator Mitch McConnell and Gloria Vanderbilt, who have the same birthday, and with the Invitational Clam Chowder Festival of Santa Cruz, California, which opens on that day; and

WHEREAS, this honorable body will nonetheless focus its attention that day on its own Representative Richards;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this body wishes Representative Richards a very happy birthday.

Section 2. That when the House adjourns this day, Friday, February 19, 1988, it does so in tribute to Representative Jody Richards.

Section 3. That a copy of this resolution be sent to Representative Jody Richards.

On the roll call the vote was: Yeas 97, Nays 0. (See February 19, roll call on **HR 101** - Appendix A.)

HR 101 was adopted.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 730, by Representative Blevins: AN ACT relating to family day care.

HB 731, by Representative Reinhardt: AN ACT relating to engineers and surveyors.

HB 732, by Representative Ackerson: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 733, by Representatives O'Brien and B. Smith: AN ACT relating to cave protection.

HB 734, by Representative B. Smith: AN ACT relating to real estate appraisers.

HB 735, by Representatives Crupper and P. Richardson: AN ACT relating to theft.

HB 736, by Representative Northup: AN ACT relating to precinct election officers.

HB 737, by Representative Northup: AN ACT relating to proposing an amendment to the Constitution of Kentucky relating to amendments.

HB 738, by Representative Northup: AN ACT proposing to amend the Constitution of Kentucky relating to taxation.

HB 739, by Representative Northup: AN ACT relating to district courts.

HR 102, by Representatives Bruce and McElroy: A RESOLUTION urging the United States Congress to pass **HB 2148** and **SB 1109** requiring labeling of foods which contain tropical fats.

Report of Committees

The Committee on Rules reported **HB 496** has been posted for passage in Orders of the Day, February 22, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 673**, **HB 722**.

Education: **HB 566**.

Agriculture and Small Business: **HB 356**.

Counties and Special Districts: **HB 629**, **HB 635**, **HB 677**.

Judiciary-Criminal: **HB 598**, **HB 674**.

Judiciary-Civil: **SB 4**, **HB 414**, **HB 582**, **HB 61**, **HB 173**, **HB 26**, **HCR 30**.

Representative T. Jones moved that the rules be suspended for the purpose of withdrawing a bill. Agreed.

Representative T. Jones moved that **HB 342** be withdrawn. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 434**, by Representative Lear:

Amend printed copy of Committee Substitute to **HB 434** on page 2, line 17, after the word "*tag*" insert the following: "*, which shall be valid for fifteen (15) days from the date of issuance,*"

Floor Amendment No. 1 to House Committee Substitute to **HB 468**, by Representative Meyer:

Amend printed copy of HCS to **HB 468** on page 2, line 4, after the period "." by placing opening and closing brackets and striking through the word "The" and inserting in lieu thereof:

"*In any county in which the representative citizens' commission was appointed prior to February 1, 1988, the votes shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of election commissioners to the county clerk. If it appears that a majority of those voting are in favor of adopting the plan, the commissioners shall enter such fact of record and shall organize the urban county government. In any county in which the representative citizens' commission was appointed after February 1, 1988, the*".

Floor Amendment No. 3 to the Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 10, by inserting after "*court*" the words "*or urban county legislative body in urban counties*"; and

on page 4, line 16, by inserting after "*court*" the words "*or urban county legislative body*"; and

on page 4, line 21, by deleting line 21 after the word "*herewith.*"; and

on page 4, by deleting lines 22 through 26; and

on page 5, by deleting line 1; and

on page 5, line 5, by inserting after "of" the words "*the county clerk*" and by bracketing and striking through the words "each officer"; and on page 5, line 7, by inserting after the word "thereof" the words "*, but the amount allowed for the necessary office expenses of the sheriff shall be fixed by an order entered upon the order book of the fiscal court or the urban county legislative body in urban counties*"; and

on page 5, line 15, by inserting after "of" the words "*the sheriff and the county clerk*" and by putting an opening bracket before and striking through the word "each"; and

on page 5, line 16, by placing a closing bracket after and striking through the word "officer"; and

on page 5, line 22, by inserting before the word "Each" the words "*The sheriff and the county clerk*" and by bracketing and striking through the words "Each officer"; and

on page 6, line 6, by inserting after the word "of" the words "*the sheriff and the county clerk*" and by bracketing and striking through the words "each officer"; and

on page 6, line 23, by inserting after the first use of the word "to" the words "*the county clerk*" and by bracketing and striking through the words "each officer"; and

on page 6, line 25, by inserting after the word "of" the words "*the county clerk*" and by bracketing and striking through the words "each officer"; and

on page 7, line 1, by inserting after the word "thereof" the words "*, but the number of deputies and assistants allowed to the sheriff and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts, upon the motion of the sheriff by the fiscal court or the urban county legislative body in urban counties*"; and

on page 7, line 3, by inserting after the word "to" the words "*the sheriff and the county clerk*" and by bracketing and striking through the words "each officer".

Floor Amendment No. 4 to Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 10, by inserting after the word "*court*" the words "*or urban county legislative body in urban counties*"; and

on page 4, line 16, by inserting after the word "*court*" the words "*or urban county legislative body*"; and

on page 4, line 22, by deleting the words "*and in*"; and

on page 4, line 23, by deleting the words "*counties having an urban-county form of government*"; and

on page 5, line 3, by bracketing and striking through all of line 3; and

on page 5, line 5, by inserting after the word "of" the words "*the county clerk and the sheriff*" and by bracketing and striking through the words "each officer"; and

on page 5, line 7, by inserting after the word "thereof." the words "*In counties having an urban-county form of government, the amount for necessary office expenses of the county clerk shall be fixed by an order of the circuit court, but the necessary office expenses of the sheriff shall be fixed by the urban county legislative body.*"; and

on page 5, line 15, by inserting after "of" the words "*the county clerk and the sheriff*" and by placing an opening bracket before and striking through the word "each"; and

on page 5, line 16, by placing a closing bracket after and striking through the word "officer"; and

on page 5, line 22, by inserting before "Each" the words "*The sheriff and the county clerk*" and by bracketing and striking through the words "Each officer"; and

on page 6, line 6, by inserting after "of" the words "*the sheriff and the county clerk*" and by bracketing and striking through the words "each officer"; and

on page 6, line 21, by placing an opening bracket before the word "and"; and

on page 6, line 22, by placing a closing bracket after the word "government" and by striking through the bracketed language on lines 21 and 22; and

on page 6, line 23, by inserting after the first use of the word "to" the words "*the county clerk and the sheriff*" and by bracketing and striking through the words "each officer"; and

on page 7, line 1, by inserting after the word "thereof." the words "*In counties having an urban-county form of government, the number of deputies and assistants allowed to the county clerk and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts, upon the motion of the county clerk, by an order entered upon the order book of the circuit court and signed by the chief judge thereof, but the number of deputies and assistants allowed the sheriff, and the compensation allowed to each deputy and assistant shall be fixed by the urban county legislative body.*".

The Clerk announced the following meetings:

The Budget Review Subcommittee on Commerce, 30 minutes after adjournment in Room 104.

The Jefferson County Delegation, February 22, 1988, 2:00 p.m., Room 110.

Appropriations and Revenue Subcommittee on Human Resources, February 22, 1988, 1:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 22, 1988.

The motion to adjourn was adopted by voice vote.

MONDAY, FEBRUARY 22, 1988

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, The Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 19, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **HB 300**, **HB 323** and **HB 460**.

SB 2 returned with the following message: The Senate has refused to concur in the House Committee Substitute to **SB 2** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 202**, **HCR 6** and **HJR 29** had been examined and found correctly enrolled. Said Bill and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:05 p.m.)

HB 202, **HCR 6** and **HJR 29** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 740, by Representatives Mason and Ridley: AN ACT relating to pesticides.

HB 741, by Representative McElroy: AN ACT relating to testing of certain persons for infection with any causative agent of the acquired immune deficiency syndrome.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 735**.

Banking and Insurance: **HB 723**.

Business Organizations and Professions: **HB 725**, **HB 731**, **HB 728**, **HB 734**.

Counties and Special Districts: **HB 724**.

Health and Welfare: **HB 730**.

Judiciary-Civil: **HB 727**, **HB 739**.

Judiciary-Criminal: **HB 732.**

Natural Resources and Environment: **HB 729, HB 733, SB 193, 501 KAR 6:020.**

State Government: **HB 726, HB 736, HB 737, HB 738, SB 210, SB 209.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HJR 51.**

Appropriations and Revenue: **HB 663, HB 426.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Education: **HB 604.**

Orders of the Day

HB 400, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of Committee Amendment No. 1 to **HB 400**. Agreed.

Representative Nett moved that **HB 400**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 4. (See February 22, 1988 roll call on **HB 400** - Appendix A.)

HB 400, as amended, was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 400**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Committee Substitute to **HB 468**. Agreed.

Representative Meyer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 468**.

Representative Hancock moved that Floor Amendment No. 1 to the Committee Substitute to **HB 468** be laid on the Clerk's Desk. Rejected.

Representative Meyer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 468**. Rejected.

Representative McElroy moved that **HB 468**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 54, Nays 42. (See February 22, 1988 roll call on **HB 468** - Appendix A.)

HB 468, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 468**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **HB 434**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 434**. Agreed.

Representative Lear moved that **HB 434**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 22, 1988 roll call on **HB 434** - Appendix A.)

HB 434, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 434**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 169** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:25 p.m.)

Orders of the Day (continued)

HB 317, with Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **HB 317**. Agreed.

Representative Curd moved that **HB 317**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 12. (See February 22, 1988 roll call on **HB 317** - Appendix A.)

HB 317, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 317**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 230, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved the adoption of the Committee Substitute to **HB 230**. Agreed.

Representative Castleman moved that **HB 230**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 22, 1988 roll call on **HB 230** - Appendix A.)

HB 230, by way of Committee Substitute, was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 230**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 450 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 450** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 22, 1988 roll call on **HB 450** - Appendix A.)

HB 450 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 450** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 405 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 405** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 22, 1988 roll call on **HB 405** - Appendix A.)

HB 405 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 405** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 742, by Representative Barrows: AN ACT relating to state personnel.

HB 743, by Representative Mason: AN ACT relating to coal mining.

HB 744, by Representative Donnermeyer: AN ACT relating to law enforcement and professional fire fighters foundation program funds, and declaring an emergency.

HB 745, by Representative Barrows: AN ACT relating to maximum class sizes.

HB 746, by Representative Barrows: AN ACT relating to power equalization funds.

HB 747, by Representative Donnermeyer: AN ACT relating to the department of information systems.

HB 748, by Representative A. Jones: AN ACT relating to notaries public.

HB 749, by Representative Gray: AN ACT relating to a planning period for teachers.

HB 750, by Representative Long: AN ACT relating to personnel board elections.

HB 751, by Representative Gray: AN ACT relating to proposing an amendment to Section 230 of the Constitution of Kentucky relating to circumstances under which money may be drawn from the Treasury.

HR 103, by Representative Deskins: A RESOLUTION adjourning the House of Representatives in memory and in honor of William J. Baird.

HR 104, by Representative Casebier: A RESOLUTION honoring George Kok.

HR 105, by Representative Deskins: A RESOLUTION honoring William Hambley and granting him privilege of the floor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 527, HB 671.**

Judiciary-Criminal: **HB 293.**

State Government: **HB 244, HB 487, HB 488, HB 489, HB 491, HB 492, HB 612, HB 613, HB 662, HB 690, HCR 92, SB 18, SB 23, SB 24, SB 25, SB 28, SB 29, SB 30, SB 131, SB 139, SB 174, SB 180, SB 188, SB 199, SB 214, SB 216, SCR 45.**

Motions, Petitions and Communications (continued)

Representative Crupper moved that **HB 217** be reassigned to the Committee on Natural Resources and Environment. Agreed.

Representative Deskins moved the adoption of the following **HR 103**:

HR 103, A RESOLUTION adjourning the House of Representatives in memory and in honor of William J. Baird.

With deepest respect we pay homage to William J. Baird.

WHEREAS, William J. Baird of Pikeville, Kentucky departed this life on October 31, 1987; and

WHEREAS, William J. Baird was the beloved husband of Florane Justice Baird, loving father of William J. Baird III, John H. Baird, Charles J. Baird and Jane C. Baird; and

WHEREAS, this outstanding citizen was a highly regarded attorney and an esteemed member of the Kentucky Bar Association for fifty years; and

WHEREAS, William J. Baird demonstrated his leadership abilities as a member of the Board of Trustees at Pikeville College for twenty-nine years, the Pikeville Independent School Board and the Board of Directors at Pikeville Methodist Hospital; and

WHEREAS, William J. Baird was a devout member and served as an elder of the First Presbyterian Church of Pikeville;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its profound grief over the loss of William J. Baird.

Section 2. That the House of Representatives extends its sincere and most heartfelt sympathy to his family.

Section 3. That when the House of Representatives adjourns this day, February 22, 1988, it does so in honor and in memory of William J. Baird.

Section 4. That a copy of this resolution be sent to Mrs. Florane Justice Baird, P. O. Box 351, Pikeville, Kentucky 41501.

HR 103 was adopted by voice vote.

Representative Deskins moved the adoption of the following **HR 105**:

HR 105, A RESOLUTION honoring William Hambley and granting him privilege of the floor.

WHEREAS, William Hambley is a noted Eastern Kentucky physician who has devoted countless hours practicing medicine during a time when medical doctors were few; and

WHEREAS. William Hambley began his public service in 1954 after being appointed to the joint City-County Planning Commission and has served as Mayor of the City of Pikeville for twenty-eight years; and

WHEREAS, William Hambley was instrumental in the development, from inception to completion, of the Pikeville Cut-Thru project, a major-flood control project, which was dedicated in October, 1987; and

WHEREAS, William Hambley has altruistically devoted his time and energies to the City of Pikeville and the citizens of Pike County, and has demonstrated that he is a man who can move mountains;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends and honors William Hambley for his dedication to the citizens of his community and the Commonwealth of Kentucky.

Section 2. That the House of Representatives does hereby grant privilege of the floor to William Hambley on this day, Monday, February 22, 1988.

Section 3. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mayor William Hambley, 230 Bank Street, Pikeville, Kentucky, 41501.

HR 105 was adopted by voice vote.

Representative J. Harper moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Harper moved that he be recorded as voting "yea" on **HB 400**. Agreed.

Representative Little moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Little moved that he be recorded as voting "yea" on **HB 400**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 20, Representative Lyne; **HB 81**, Representative Walker; **HB 176**, Representatives Geveden, Stumbo; **HB 204**, Representative Hoover; **HB 333**, Representative Seum; **HB 414**, Representative Seum; **HB 429**, Representative Seum; **HB 430**, Representative Seum; **HB 432**, Representative Seum; **HB 447**, Representative Seum; **HB 450**, Representative Altman; **HB 494**, Representatives Mason, Strong; **HB 496**, Representative Callahan; **HB 504**, Representative Ackerson; **HB 536**, Representative Seum; **HB 546**, Representative Seum; **HB 581**, Representative Mason; **HB 589**, Representative Moberly; **HB 682**, Representative Castleman; **HCR 48**, Representative Ackerson.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions: **HB 496**, Representative Casebier; **HCR 61**, by Representative Will.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 652**, by Representative Worthington:

Amend printed copy of **HB 652** on page 41, after line 8 and before line 9 by inserting:

"Section 19. KRS 287.040 is amended to read as follows:

(1) Any five (5) or more persons may organize a banking corporation.

(2) Any seven (7) or more persons may organize a corporation for the purpose of conducting a trust business.

(3) Any *five (5)* [~~seven (7)~~] or more persons may organize a corporation for the purpose of conducting combined banking and trust business.

(4) The board of directors of a banking corporation, trust corporation or combined bank and trust corporation shall be no less than the required number of incorporators."

On page 41, line 9 by deleting "19" and inserting "20" in lieu thereof.

Floor Amendment No. 2 to **HB 652**, by Representative LeMaster:

Amend printed copy of **HB 652** on page 39, line 7 after "*States*" and before "." by inserting

"*and continue to own, operate, share, maintain or use, at the place where located on December 31, 1987, any electronic terminal which was in operation under the authority of regulations of the commissioner on December 31, 1987*".

Floor Amendment No. 5 to Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 21, by deleting the word "*in*"; and

on page 4, line 22, by deleting the words "*counties containing a city of the first class and*"; and

on page 4, lines 25 and 26, by deleting the words "*an order entered upon the order book of the circuit court and signed by the chief judge thereof*" and by substituting therefore "*joint order of the mayor and the chief judge of the circuit court*"; and

on page 5, line 2, by placing an opening bracket before the word "containing"; and on page 5, line 3, by placing a closing bracket after the word "counties" and by striking through the bracketed words on lines 2 and 3; and

on page 5, line 5, by placing an opening bracket before the "an" and on page 5, line 7 by placing a closing bracket after the word "thereof" and by striking through the bracketed language on lines 5 through 7 and by substituting therefore the following: "*a joint order of the mayor and the chief judge of the circuit court*"; and

on page 6, line 20, by placing an opening bracket before the word "containing" and on page 6, line 21, by placing a closing bracket around the "counties" and by striking through the bracketed language on lines 20 and 21; and

on page 6, line 25, by placing an opening bracket before the word "an" and on page 7, line 1, by placing a closing bracket after the word "thereof" and by striking through the bracketed language on lines 25 and 26 of page 6 and line 1 of page 7 and by substituting therefor the words "*a joint order of the mayor and the chief judge of the circuit court*".

Floor Amendment No. 6 to Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 22, by deleting line 22; and

on page 5, line 2, by placing an opening bracket before the word "containing" and on page 5, line 3, by placing a closing bracket after the word "counties" and by striking through the bracketed language on lines 2 and 3; and

on page 6, line 20, by placing an opening bracket in front of the word "containing" and on page 6, line 21 by placing a closing bracket after the word "counties" and by striking through the bracketed language on lines 20 and 21.

The Clerk announced the following meetings:

The Committee on Labor and Industry, February 23, 1988, 8:00 a.m., Room 104.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 23, 1988.

On the roll call the vote was yeas 83-Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Turner, White, Will, Worthington, Yates. Nays 5-Casebier, Deskins, Heleringer, LeMaster, Walker.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 23, 1988

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 22, 1988 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 300**, **HB 460** and **HB 323** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:03 p.m.))

HB 300, **HB 460** and **HB 323** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Senate Message

Announcing the passage of **SB 237** and **HB 347**.

Introduction of Bills and Resolutions

HB 752, by Representative Cline: AN ACT relating to self-service storage facilities.

HB 753, by Representative A. Jones: AN ACT relating to cruelty to animals.

HB 754, by Representative LeMaster: AN ACT relating to the department of law.

HB 755, by Representative LeMaster: AN ACT relating to coal mining.

HB 756, by Representative Callahan: AN ACT relating to retirement.

HB 757, by Representative Callahan: AN ACT relating to motor vehicles.

HR 106, by Representatives Reinhardt, Gedling, Arnold, Lyne, Altman, Crupper, B. Smith, Farrow, Geveden, Napier, Turner, Ark and Maggard: A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

HR 107, by Representatives Blandford and Worthington: A RESOLUTION directing appointment of a committee to wait upon the Chief Justice.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 740**.

Appropriations and Revenue: **HB 744.**

Education: **HB 745, HB 746, HB 749.**

Health and Welfare: **HB 741.**

Judiciary-Civil: **HB 748.**

Natural Resources and Environment: **HB 743.**

State Government: **HB 742, HB 747, HB 750, HB 751.**

Report of Committees

The Committee on Rules reported **HB 18, HB 408, HB 560, HB 583, HB 590, HB 638, HB 641** and **SB 20** have been posted for passage in Orders of the Day, February 24, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day. February 24, 1988: **HB 17, HB 456.**

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 597.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 667, HB 668, SB 175.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Energy: **HB 511.**

Report of Committees

The Committee on Education reported **HB 209**, with Committee Amendment attached thereto, **HB 220, HB 345** with Committee Substitute attached thereto, **SB 38** with Committee Amendments attached thereto, and **SB 72** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to the educational information system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The state board of education shall conduct a pilot project to provide a computerized information system for the timely and accurate flow of information between the Kentucky department of education and selected local school districts. The computerized education information system pilot project shall provide program and instructional support and information to teachers and shall assist local districts in meeting the reporting and management requirements of KRS 158.660 to 158.730.

(2) By July 15, 1988, the state board of education shall select fifteen (15) local districts to participate in the pilot program, and by June 30, 1989, the state board of education shall select an additional fifteen (15) districts for participation in the second year of the program. The state board of education shall promulgate

regulations providing an equitable process for selecting the participating districts which shall include a broad representation of districts. Criteria to be considered shall include, but not be limited to, diverse geographic locations, sizes, and management and reporting needs, availability of existing hardware, and willingness to participate.

(3) Districts wishing to participate shall submit applications to the state board of education outlining their management and reporting needs, their commitment to participate, and the availability of existing hardware.

(4) During the implementation of the pilot project, the department of education shall provide centralized and on-site training for all appropriate personnel at the district and department level.

(5) During the implementation of the pilot project, a study team composed of persons, outside the department, with expertise in management or computer services, shall assist the advisory committee in evaluating the management and instructional applications of the computerized information system. The team shall be appointed by the superintendent of public instruction and its responsibilities shall include interviewing those teachers and administrators using the system concerning the efficacy of the system.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) An advisory committee is created and attached to the board of education to develop and recommend to the superintendent of public instruction and state board of education policies and procedures for implementing the computerized information system pilot project. Other duties of the advisory committee shall include, but not be limited to:

(a) Making recommendations to the state board of education concerning the development, implementation, refinement, and continued monitoring of the system, and the preparation of the annual budget;

(b) Conducting an annual review of the system; and

(c) Preparing a final report for submission to the general assembly during the 1990 legislative session.

(2) The executive committee shall be composed of eleven (11) members appointed by the governor and it is recommended that the membership be as follows:

(a) A superintendent of a local district with extensive computer capabilities;

(b) Two (2) supervisory employes of the department of information services;

(c) A teacher;

(d) A school administrator;

(e) The director of the computerized information system pilot project;

(f) Three (3) employes of the department of education, one (1) who is in a supervisory position with the division of computer services, one (1) who is in a supervisory position with the division of school management and audit, and one (1) who is the deputy superintendent for administration; and

(g) Two (2) members having expertise in management or computer services in the private sector.

(3) The members shall receive no compensation for their services, but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

The Committee Amendment No. 1 to **HB 209** is as follows:

Amend printed copy of **HB 209** on page 1, line 13, delete *"fifteen (15) local"*;

On page 1, line 15, delete *"an additional fifteen (15)"*.

HB 220, AN ACT relating to transportation of pupils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.370 is amended to read as follows:

(1) Whenever any school [~~bus~~] or church bus [~~used in the transportation of children~~] is stopped [~~upon a highway~~] for the purpose of receiving or discharging passengers, *with the stop arm and signal lights activated,* the operator of a vehicle approaching from any direction shall bring his vehicle to a [~~complete~~] stop and shall not *proceed* [~~start up or attempt to pass~~] until the *stop arm and signal lights have been deactivated. The* [~~bus has completed receiving or discharging passengers and has been put into motion; provided, that this~~] stop requirement *provided for in this section* shall not apply to vehicles *approaching a stopped bus from* [~~proceeding in~~] the opposite direction [~~from a church or school bus which is stopped~~] upon a [~~multi-lane~~] highway of four (4) or more lanes.

(2) Subsection (1) of this section shall be applicable only *when the bus displays the markings and equipment required by Kentucky minimum specifiations for school buses* [~~in the event the bus bears on the front and rear a plainly visible sign containing the words "School Bus" or "Church Bus," whichever is appropriate, in letters not less than six (6) inches in height, which can be covered when the vehicle is not in use as a school or church bus~~].

(3) If any vehicle is witnessed to be in violation of subsection (1) of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered or leased was the operator of the vehicle at the time of the alleged violation and is subject to the penalties as provided for in KRS 189.990(6).

Section 2. KRS 189.375 is amended to read as follows:

No school *or church* bus shall be licensed or operated for the transportation of school children unless it *is equipped with bus alternating flashing signal lamps and a stop arm folding sign. The bus body shall be equipped with a system of four (4) red signal lamps, two (2) on the front and two (2) on the rear of the bus, and four (4) amber signal lamps. Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red lamps shall be automatically activated when the bus door is opened. The bus body shall be equipped with a stop arm* [~~has a~~] folding sign on the driver's side [~~thereof~~] with letters at least six (6) inches in height displaying the word "stop" on both sides. *Prior to* [~~Before~~] stopping the school bus *for the purpose of receiving* [~~and while loading~~] or discharging school children, the driver shall *activate the amber flashing signal lamps. Once the bus comes to a complete stop, the driver shall open the door which automatically extends the stop arm and activates the red flashing signal lights* [~~open out the sign~~] so [~~that~~] it *shall* [~~will~~] be plainly visible to traffic approaching from both directions *that the bus is in the process of receiving or discharging passengers.* No driver shall stop a school *or church* bus for *receiving or discharging passengers* [~~loading or unloading purposes~~] in a no passing *zone* [~~area such as a hill or curve~~] which does not afford reasonable visibility to approaching motor vehicles from both directions. No driver shall stop a school [~~bus~~] or church bus [~~and allow it to remain standing~~] for the purpose of receiving passengers from or discharging passengers to the opposite side of the road on a [~~multi-lane~~] highway of four (4) or more lanes; provided, that this provision does not prohibit the discharging of passengers [~~who desire to cross the highway~~] at a marked pedestrian crossing [~~after the bus has proceeded~~].

Section 3. KRS 189.380 is amended to read as follows:

(1) No person shall turn a vehicle or move right or left upon a roadway [~~unless and~~] until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

(2) A signal *indicating* [~~of~~] the intention to turn right or left shall be given continuously for not less than the last one hundred (100) feet traveled by the vehicle before *the turn* [~~turning~~].

(3) No *bus driver* [~~person~~] shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal *to traffic following the bus* [~~in the manner provided herein to the operator of any vehicle immediately in the rear when there is opportunity to give such signal~~].

(4) All signals required herein shall be given [~~either~~] by [~~means of the hand and arm or by a~~] signal [~~lamp or~~] lamps or [~~a~~] mechanical signal *devices.* [~~device, except that the operator of a motor vehicle used for the transportation of persons for hire with taxicabs excluded, the operator of a school or church bus, and the operator of any vehicle so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle shall indicate an intention to turn by use of a signal lamp or lamps or mechanical signal device and must indicate an intention to stop or suddenly decrease speed by illuminating at least one (1) red or yellow light with the word "Stop" on it on the rear of the vehicle.~~

~~(5) All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:~~

~~(a) Left turn — hand and arm extended horizontally;~~

~~(b) Right turn — hand and arm extended upward;~~

~~(c) Stop or decrease speed — hand and arm extended downward.~~]

Section 4. KRS 189.540 is amended to read as follows:

(1) The state board of education [~~by and with the advice of the state police~~] shall adopt [~~and enforce~~] regulations to govern the design and operation of all *Kentucky* school buses. *The board shall, with the advice and aid of the Kentucky state police, enforce the regulations governing the operation of all school buses whether owned* [~~used for the transportation of school children when buses are owned and operated~~] by *a* [~~any~~] school district or privately *contracted* [~~owned and operated under contract with any school district~~]. *The* [~~Such~~] regulations *covering the operation* shall by reference be made a part of *any* [~~such a~~] contract with a school district. Every school district *and private contractor referred to under this subsection*[~~, its officers and employes and every person employed under contract by a school district~~] shall be subject to those regulations.

(2) Any [~~officer or~~] employe of any school district who violates any of the regulations [~~or fails to include obligations to comply with the regulations~~] in any contract executed [~~by them~~] on behalf of a school district shall be [~~guilty of misconduct and~~] subject to removal from office [~~or employment~~]. Any person operating a school bus under contract with a school district who fails to comply with any of the regulations shall be guilty of breach of contract and *the* [~~his~~] contract shall be canceled after *proper* notice and *a* hearing by the responsible officers of such school district.

Section 5. KRS 189.550 is amended to read as follows:

Operators of *all buses and* motor vehicles *used for* transporting children [~~to or from school or church~~] shall stop their [~~motor~~] vehicles before crossing [~~over~~] any [~~steam or electric interurban~~] railroad *when* [~~main~~] tracks *are* at *the same level of the roadway* [~~a grade~~]. The stop shall be made [~~at~~] not less than ten *(10)* feet [~~(10′)~~] nor more than thirty *(30)* feet [~~(30′)~~] from the nearest *track* [~~railroad~~] over which the highway crosses[~~; except where the crossing is protected by gates or a flagman employed by the railroad~~]. After making the stop, the operator shall *open the service door and* carefully look in each direction *and listen* for approaching [~~cars or~~] trains *or maintenance vehicles before proceeding* [~~and shall not start his vehicle until it is ascertained that no cars or trains are approaching in either direction~~].

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person [~~convicted of~~] violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall[~~, upon conviction,~~] be fined [~~in an amount equal to~~] two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and [~~upon conviction thereof,~~] shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation *thereof* [~~of KRS 189.170~~].

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person *who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted* [~~who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both~~].

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than *fifty* [~~twenty~~] dollars *($50)* [~~($20)~~] nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall[~~, upon conviction thereof,~~] be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person *violating* [~~convicted for violation of~~] KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, [~~(but~~] in amounts consistent with this chapter. [~~) and the response to~~] Nonpayment of fines shall be governed by KRS 534.060.

HB 345. AN ACT relating to parenting and family life skills education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall administer the provisions of this section pursuant to regulations adopted by the state board of education.

(2) As used in this section, "parenting education and family life skills" shall include age appropriate information in the following instructional areas: developing positive self esteem and self concept, determining values, setting goals, decision making, communication skills and conflict resolution, peer pressure, substance abuse prevention, personal safety and prevention of family violence, human growth and development, human sexuality, responsible sexual behavior, sexually transmitted diseases, and parenting and family life skills.

(3) By September 1, 1989, all local school districts shall have ready for implementation a plan approved by the department of education for providing parenting and family life skills education in grades kindergarten to twelve (12). The plan shall be developed by an advisory committee composed of an equal number of lay persons and professional resource personnel, appointed by the district superintendents. Participants may include teachers, school administrators, guidance counselors, social workers, school nurses, parents, students, representatives of parent-teacher organizations, religious groups, civic groups, health and mental health agencies, criminal justice professionals, and appropriate governmental agencies.

(4) The district plan shall specify that students receive a minimum of one (1) week instruction in each year of the elementary grades, kindergarten to five (5); a minimum of three (3) weeks in each year of the middle grades, six (6) to eight (8); and one (1) semester of required instruction in any of the secondary grades, nine (9) to twelve (12).

(5) The plan shall provide that all pupils in grades nine (9) to twelve (12) shall earn one-half (1/2) credit in parenting education and family life skills through the home economics classes as a requirement for high school graduation or score eighty percent (80%) on a competency test developed by the department of education.

(6) The local board of education shall establish a procedure whereby any pupil whose parent or guardian submits to the school principal a signed statement listing the areas of family life education which are in conflict with the moral or religious beliefs of the family shall be excused from class when instruction in those areas is provided and no penalty as to credit shall result therefrom. Each district plan shall specify an educational program for these parents to enable them to instruct their children in areas covered by the parenting and family life skills program.

(7) The district plan for parenting and family life skills shall be reviewed and approved by the local superintendent, the local school board, and the department of education.

(8) Elementary school programs shall be taught by certified teachers with department of education specialized training. Middle and secondary programs shall utilize properly certified and trained home economics teachers.

(9) In-service training shall be conducted by department of education approved trainers with expertise in the areas of instruction to be taught. Additional resource personnel used for local instruction may be recommended by the local district advisory committee and approved according to local guidelines.

The Committee Substitute to **HB 345** is as follows:

HB 345, AN ACT relating to parenting and family life skills education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall administer the provisions of this section pursuant to regulations adopted by the state board of education.

(2) As used in this section, "parenting education and family life skills" shall include age appropriate

information in the following instructional areas: developing positive self esteem and self concept, determining values, setting goals, decision making, communication skills and conflict resolution, peer pressure, substance abuse prevention, personal safety and prevention of family violence, human growth and development, human sexuality, responsible sexual behavior including premarital abstinence, sexually transmitted diseases including the human immunodeficiency virus (HIV) and any other virus linked to the acquired immune deficiency syndrome (AIDS), and parenting and family life skills.

(3) The curriculum for this plan shall be based on a model curriculum developed by the department of education and approved by the state board of education for use as a guide by local districts.

(4) By September 1, 1988, all local school districts shall have ready for implementation a plan approved by the department of education for providing parenting and family life skills education in grades kindergarten to twelve (12). The plan shall be developed by an advisory committee composed of an equal number of lay persons and professional resource personnel, appointed by the district superintendents. Participants shall include parents and may include teachers, school administrators, guidance counselors, social workers, school nurses, students, representatives of parent-teacher organizations, religious groups, civic groups, health and mental health agencies, criminal justice professionals, and representatives of appropriate governmental agencies.

(5) The district plan shall specify that students receive a minimum of five (5) hours of instruction in each year of the elementary grades, kindergarten to five (5); a minimum of twelve (12) hours in each year of the middle grades, six (6) to eight (8); and ninety (90) hours in any of the secondary grades, nine (9) to twelve (12). Instruction shall be provided by certified personnel who have received specialized in-service training by department of education approved trainers.

(6) (a) At least one (1) month prior to instruction in human sexuality education in any classroom, all instructional material to be used in the course including materials such as films, audio-visuals and all recommended readings shall be made available at the school for reviewing by parents and guardians. The school shall publicize the availability of the materials for viewing by parents and guardians.

(b) The local board of education shall establish a procedure whereby the parent or guardian of any student in kindergarten to sixth grade must submit a signed statement to the principal giving specific permission for the child to participate in any instruction required by this Act.

(c) For students in grades seven (7) to twelve (12), the parent or guardian must submit a signed statement to the principal requesting the student be exempt from such instruction if the parent or guardian wishes to have the student exempted. In the event such request is submitted, alternate instruction shall be provided for the student. In addition, instructional materials shall be provided for parents or guardians wishing to instruct their children in areas covered by the provisions of this Act.

(7) The district plan for parenting and family life skills shall be reviewed and approved by the local superintendent, the local school board, and the department of education.

(8) Specialized in-service training shall be conducted by department of education approved trainers with expertise in the areas of instruction to be taught. Additional resource personnel used for local instruction may be recommended by the local district advisory committee and approved according to local guidelines.

(9) The state department of education shall develop a method of measuring the effectiveness of the curriculum in each local school district including the setting of reasonable goals for the reduction of reported sexual activity, sexually transmitted diseases and premarital pregnancy by the 1994-95 school year and shall transmit such method to each local school district. Each local school district may develop additional methods for measuring the effectiveness of the curriculum within the district.

SB 38, AN ACT relating to the Kentucky Educational Savings Plan Trust.

WHEREAS, the present and future well being of the Commonwealth of Kentucky is closely related to the educational level and the level of skills of the citizens of the Commonwealth and it is in the best interests of the Commonwealth that programs be enacted and supported by public funds to the extent necessary, to encourage and make possible the attainment of the highest level of education by the citizens of Kentucky; and

WHEREAS, it is necessary in the interest of the public welfare of the Commonwealth that legislation be enacted to implement the foregoing public policies and interests of the Commonwealth.

NOW, THEREFORE:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The general assembly of the Commonwealth of Kentucky hereby declares as a legislative finding of fact that the general welfare and well-being of the Commonwealth are directly related to the educational levels and skills of the citizens of the Commonwealth. Therefore, a vital and valid public purpose of the Commonwealth is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the Commonwealth.

(2) The general assembly finds, declares and recognizes that the Commonwealth has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in Kentucky and the general welfare of the citizens and the Commonwealth will be enhanced by creation of a program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education costs in the Commonwealth and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for such future higher education application represents the carrying out of a valid and vital public purpose of the Commonwealth. In order to make available to the citizens of the Commonwealth an opportunity to fund future higher education needs for beneficiaries with certain public assistance, it is necessary that a public trust be established in which the citizens of the Commonwealth and others may invest moneys for future educational use. It is further necessary to establish and create an endowment fund, which may be funded with public funds, among other sources, the income from which will be made available to participants in the trust to enhance their savings invested for future higher education costs.

(3) It is the intent of the general assembly of the Commonwealth of Kentucky to create the Kentucky educational savings plan trust with an endowment to enhance the investment return of the trust. The implementation and effectuation of the Kentucky educational savings plan trust as provided by this Act constitutes the carrying out of a valid and vital public purpose for which public funds of the Commonwealth may be expended.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in this Act, except where the context clearly requires another interpretation:

(1) "Act" means the Kentucky educational savings plan trust act;

(2) "Beneficiary" means any person designated by a participation agreement to benefit from payments for higher education costs at an institution of higher education;

(3) "Benefits" means the payment of higher education costs on behalf of a beneficiary by the trust during the beneficiary's attendance at an institution of higher education;

(4) "Board" means the board of directors of the Kentucky educational savings plan trust;

(5) "Endowment fund" means the endowment fund established by Section 8 of this Act which shall be held as a separate fund within the trust;

(6) "Higher education costs" means the certified costs of tuition, fees, room and board, or any of the foregoing, for attendance at an institution of higher education;

(7) "Institution of higher education" means a two (2) year or four (4) year public or regionally accredited private or non-profit college, university, or vocational-technical school;

(8) "Kentucky educational savings plan trust" or "trust" means the trust created by this Act;

(9) "Participant" means an individual, firm, corporation or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to this Act for the advance payment of higher education costs on behalf of a beneficiary;

(10) "Participation agreement" means an agreement between a participant and the trust, pursuant to and conforming with the requirements of this Act;

(11) "Program administrator" means the administrator of the trust appointed by the board to administer and manage the trust;

(12) "Program fund" means the program fund established by Section 8 of this Act which shall be held as a separate fund within the trust;

(13) "Tuition" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment;

(14) "Vested participation agreement" means a participation agreement which has been in full force and effect during the vestment period without default;

(15) "Vestment period" means eight (8) continuous years of residency in the Commonwealth while participating in the trust.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

There is hereby created a public body corporate and politic to be known as the Kentucky educational savings plan trust. The trust shall be an independent political entity and shall have all necessary governmental and corporate powers, including the power and authority to:

(1) Sue and be sued;

(2) Make and enter into contracts necessary for the administration of the trust pursuant to this Act;

(3) Adopt a corporate seal and to change and amend it from time to time;

(4) Invest moneys within the trust, including the program fund and the endowment fund therein, in any investments determined by the board to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the trust;

(5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to this Act;

(6) Accept any grants, gifts, legislative appropriations and other moneys from the Commonwealth, any unit of federal, state or local government or any other person, firm, partnership or corporation for deposit to the endowment fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;

(7) Enter into participation agreements with participants;

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations and restrictions set forth in this Act;

(10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation without regard to KRS Chapter 18A;

(11) Make provision for the payment of costs of administration and operation of the trust; and

(12) Carry out the duties and obligations of the trust pursuant to this Act and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the trust and this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The trust shall, for an initial period not exceeding two (2) years, be provided with administrative and clerical support and office facilities and space by the Kentucky higher education assistance authority. Reasonable charges or fees may be levied against the trust during such initial two (2) year period for the services provided by the Kentucky higher education assistance authority, the provision of office space and clerical and administrative support being deemed and declared to be provided for a valid public purpose of the Commonwealth. Following such initial two (2) year period the trust shall make arrangements for office, clerical and administrative support as shall be appropriate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The trust shall be governed by a board consisting of eleven (11) voting members. The membership of the board shall be made up of the governor of the Commonwealth, the executive director of the Kentucky higher education assistance authority, the executive director of the council on higher education and the executive director of the council of independent Kentucky colleges and universities, who shall serve by virtue of their offices; and seven (7) members who shall be appointed from the general public of Kentucky by the governor.

(2) The initial public members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and three (3) members shall be appointed for terms of four (4) years.

(3) Following the expiration of the initial terms of the seven (7) public members, succeeding public members of the board shall be elected by the participants of the trust holding a valid participation agreement. Members shall be elected for terms of four (4) years each by a majority of those casting ballots.

(4) Members of the board shall serve without compensation but may receive reasonable reimbursement for actual and necessary expenses incurred in attendance at board meetings and in connection with other trust business.

(5) The board shall, upon its initial composition and thereafter, elect a chairman, vice chairman, secretary, treasurer and other officers as the board deems necessary and appropriate. The board shall select the program administrator, who shall serve at the pleasure of the board and be responsible for the general operation, management and administration of the trust. The program administrator shall serve as a non-voting member of the board.

(6) A majority of the members of the board shall constitute a quorum for the transaction of business at any meeting of the board or the exercise of a power or function of the trust notwithstanding the existence of vacancies on the board. Voting upon action taken by the board shall be conducted by a majority vote of the members present at a meeting of the board. The board shall meet at the call of the chairman and as may be provided in any bylaws adopted by the board. Meetings of the board may be held at any place within the Commonwealth.

(7) All board meetings shall be conducted in accordance with the provisions of KRS 61.805 to 61.850. Notice of any meeting shall be given not less than twenty-four (24) hours in advance of any meeting; provided, however, that any member of the board may waive the notice in which case the vote of the members at any scheduled meeting shall be valid for all purposes.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

In addition to effectuating and carrying out all of the powers granted by this Act, the board shall have all powers necessary to carry out and effectuate the purposes, objectives and provisions of this Act, including, but not limited to, the power to:

(1) Invest assets of the trust as provided by this Act and engage investment advisors to assist in the investment

of trust assets;

(2) Carry out studies and projections in order to advise participants regarding present and estimated future higher education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;

(3) Disburse trust moneys to any institution of higher education in order to provide for payments required by participation agreements for the benefit of beneficiaries;

(4) Contract for goods and services and engage personnel as necessary including consultants, actuaries, managers, counsel and auditors for the purpose of rendering professional, managerial and technical assistance and advice, all of which contract obligations and services shall be payable out of any moneys of the trust;

(5) Solicit and accept for the benefit of the endowment fund gifts, grants and other moneys, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency and to participate in any other way in any federal, state or local governmental program;

(6) Promulgate, impose and collect administrative fees and charges in connection with transactions of the trust, and provide for reasonable penalties, including penalties for delinquent payments in respect of participation agreements;

(7) Procure insurance against any loss in connection with the property, assets or activities of the trust;

(8) Administer the funds of the trust;

(9) Procure insurance indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the board;

(10) Promulgate reasonable rules and regulations for the administration of the trust; and

(11) Enter into contracts with institutions of higher education to effectuate the purpose of and powers granted by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

(1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans and may contain penalties for failure to make payments when scheduled;

(2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump sum payment participation agreement in connection with which a single, lump sum payment is made by the participant for the benefit of a beneficiary;

(3) The participation agreement shall determine the minimum rate of interest which shall be borne by the investment made by the participant or in lieu thereof shall provide for alternative procedures or contain a specific formula for the calculation of such rate of interest from the date of deposit of moneys by the participant to the scheduled date of maturity of the participation agreement;

(4) Beneficiaries designated in participation agreements may be designated from date of birth to age fifteen (15);

(5) Payment of benefits provided under participation agreements must begin not later than the first full fall academic semester at an institution of higher education following the eighteenth (18) birthday of the subject beneficiary unless the participant notifies the program administrator to the contrary. Upon the occurrence of

either event, the funds attributable to the participation agreement shall earn interest at the minimum rate of return beginning on a date specified by the participation agreement;

(6) The execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:

(a) Be admitted to an institution of higher education;

(b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;

(c) Be allowed to continue attendance at the institution of higher education following admission; or

(d) Graduate from the institution of higher education;

(7) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education;

(8) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries and carry out similar matters;

(9) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky prior to enrollment in any other educational institution; and

(10) Each participation agreement shall provide that the participation agreement may be cancelled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the rules and regulations promulgated by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The board shall segregate moneys received by the trust into two (2) funds, which shall be identified as the program fund and the endowment fund. All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. All moneys received by the trust from the proceeds of state appropriations, federal and state grants, gifts and other endowments for the purposes of the trust shall be deposited as received into the endowment fund, which shall be promptly invested and accounted for separately. The program fund and the endowment fund shall be separately administered. Any gifts, grants or donations made by any governmental unit or any person, firm, partnership or corporation to the trust for deposit to the endowment fund shall be a grant, gift or donation to the Commonwealth of Kentucky for the accomplishment of a valid public purpose and shall not be included in the income of the donor for Kentucky tax purposes.

(2) Any person, firm or corporation may make gifts and grants to the endowment fund and require as a condition that the income from the gifts and grants shall be applied only to the benefit of a particular group or class of beneficiaries, such as the beneficiaries of participants who are employes or members of a particular organization; and such special payments shall not affect the rights of all beneficiaries to share in the general unrestricted income of the endowment fund subject to subsection (3) of this section on a basis of pro rata equality with other beneficiaries. Notwithstanding any provisions in any such gifts or grants limiting same to a specific class of beneficiaries, such gifts or grants shall be irrevocable.

(3) Each beneficiary under a participation agreement shall receive a pro rata interest in the investment income derived by the endowment fund in any year in which moneys are paid under such participation agreement to institutions of higher education in Kentucky for higher education costs. The amount received shall be in the ratio that the principal amount paid by the participant under such participation agreement and interest earned to date thereon bears to the principal amount of all moneys, funds and securities then held in the program fund. At the time any payments or disbursements for higher education costs are due from the trust to any institution of higher education in Kentucky under a participation agreement. the trust shall also pay from endowment

fund income such proportionate amount, which shall be transferred directly to the institution of higher education in Kentucky simultaneously with the payment made from the program fund and shall be used for payment of higher education costs of the beneficiary. Moneys accrued by participants in the program fund of the trust may be used for payments to any institution of higher education. However, no rights to any moneys derived from the endowment fund shall exist if moneys payable under the participation agreement are paid to an education institution which is not an institution of higher education in Kentucky, as defined by this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

Participants shall be permitted to substitute beneficiaries at any time; provided, however, that in the event the substitute beneficiary shall be eligible for enrollment at an institution of higher education upon a date earlier than the original beneficiary, the trust shall either require the payment by the participant of a fee or cost actuarially determined to place the substituted beneficiary on a basis of actuarial parity with the original beneficiary or pay benefits at a reduced rate equal to the rate of return generated by the participation agreement and the endowment fund during such lesser time period.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) Any participant may cancel a participation agreement at will. In the event the participation agreement is cancelled by a participant prior to the expiration of two (2) years from the date of original execution of the participation agreement, there shall be refunded to the participant one hundred percent (100%) of the principal amount of all contributions made by the participant with no payment of interest thereon, and the participant shall also be required to pay a reasonable administrative refund fee, which shall be sufficient to reasonably compensate the trust for its administrative costs incident to the participation agreement. After a participation agreement has been in effect for two (2) years, participants shall be entitled to the return upon cancellation thereof of the principal amount of all contributions made by participants plus interest on such contributions at the actual rate of interest applicable thereto upon the payment of a reasonable administrative refund fee to be levied by the trust, which shall be sufficient to reasonably compensate the trust for its administrative costs incident to the participation agreement.

(2) Upon the occurrence of any of the following circumstances, no reasonable administration refund fee shall be levied by the trust in the event of termination of a participation agreement:

(a) Death of the beneficiary;

(b) Failure of the beneficiary to be admitted to an institution of higher education after filing a proper application for admission thereto;

(c) Permanent disability or mental incapacity of the beneficiary; or

(d) Cancellation of a vested participation agreement.

In the event of cancellation of a participation agreement for any of the foregoing causes, the participant shall be entitled to receive the principal amount of all payments made by the participant under the participation agreement and the actual interest earned on the payments.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

For all purposes of Kentucky law, the following shall be applicable:

(1) The participant shall retain ownership of all payments made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the payments made by the participant shall be deemed to be held in trust for the trust until the date of payment for higher education costs and thereafter for the benefit of the beneficiary;

(2) In the event the participation agreement is terminated prior to payment of higher education costs for the beneficiary, the participant shall retain ownership of all payments made under the participation agreement plus interest on all the payments at the rate of interest at which the payments were invested, except cases of voluntary participant termination within two (2) years from the date of the participation agreement, less a

reasonable administrative refund fee of the trust; or, if the participation agreement is terminated after partial utilization of benefits for the beneficiary, on a pro rata basis based upon the foregoing;

(3) The institution of higher education shall obtain ownership of the payments made for the higher education costs paid to the institution at the time each payment is made to the institution; and

(4) Any amounts which may be paid pursuant to the Kentucky educational savings plan trust which are not listed in this section, shall be owned by the trust.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

No student loan program, student grant program or other program administered by any agency of the Commonwealth, except as may be otherwise provided by federal law or the provisions of any specific grant applicable thereto, shall take into account and consider amounts available for the payment of higher education costs pursuant to the Kentucky educational savings plan trust in determining need and eligibility for student aid.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

In connection with any participation agreement as to which benefits for payment of higher education costs have accrued and are being paid or are eligible to be paid, the participant thereof may borrow from the trust, but only for the purpose of paying higher education costs to an institution of higher education. The interest rate payable by participants for any such borrowing shall be a rate as established by the board from time to time. Any contribution to such loan program from trust funds or any loan made with trust funds shall be insured.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The trust shall annually prepare or cause to be prepared an accounting of the trust and shall transmit a copy of the accounting to the governor, the legislative research commission, the Kentucky higher education assistance authority, the council on higher education and the council of independent Kentucky colleges and universities. The trust shall also transmit copies of the accounting to the participants. The accounts and books of the trust shall be subject to annual audit by an independent firm of certified public accountants.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Interest earned on moneys paid by any participant shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the interest was accrued being deemed and declared to be entirely public in nature.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

The assets of the trust, including the program fund and the endowment fund, shall at all times be preserved, invested and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries and no property rights therein shall exist in favor of the Commonwealth. The assets shall not be transferred or used by the Commonwealth for any purposes other than the purposes of the trust.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

This Act shall be construed liberally in order to effectuate its legislative intent. The purposes of the Act and all provisions of the Act with respect to powers granted shall be broadly interpreted to effectuate such intent and purposes and not as to any limitation of powers.

The Committee Amendment No. 1 to **SB 38** is as follows:

Amend printed copy of **SB 38** on page 3, line 20, after *"(2)"* insert the following: *"Administrative fund" means the funds used to administer the Kentucky educational savings plan trust;*

(3)

On page 3, line 24, delete "*(3)*" and insert "*(4)*" in lieu thereof;

On page 4, line 2, delete "*(4)*" and insert "*(5)*" in lieu thereof;

On page 4, line 4, delete "*(5)*" and insert "*(6)*" in lieu thereof;

On page 4, line 7, delete "*(6)*" and insert "*(7)*" in lieu thereof;

On page 4, line 11, delete "*(7)*" and insert "*(8)*" in lieu thereof;

On page 4, line 15, delete "*(8)*" and insert "*(9)*" in lieu thereof;

On page 4, line 17, delete "*(9)*" and insert "*(10)*" in lieu thereof;

On page 4, line 22, delete "*(10)*" and insert "*(11)*" in lieu thereof;

On page 4, line 25, delete "*(11)*" and insert "*(12)*" in lieu thereof;

On page 5, line 2, delete "*(12)*" and insert "*(13)*" in lieu thereof;

On page 5, line 5, delete "*(13)*" and insert "*(14)*" in lieu thereof;

On page 5, line 8, delete "*(14)*" and insert "*(15)*" in lieu thereof;

On page 5, line 11, delete "*(15)*" and insert "*(16)*" in lieu thereof;

On page 5, line 16, delete "*a public body corporate and politic*" and insert in lieu thereof the following: "*an instrumentality of the Commonwealth*";

On page 5, line 18, delete "*shall be an independent political entity and*";

On page 5, line 19, delete "*all necessary governmental and corporate powers, including*";

On page 6, line 2, after the word "*board*" insert the following: "*and the office for investment and debt management*";

On page 7, line 5, delete "*without regard to*" and insert "*within the provisions of*" in lieu thereof;

On page 8, line 5, delete "*governor of the Commonwealth*" and insert "*secretary of administration and finance who shall serve as chairman*" in lieu thereof;

On page 8, line 13, after "*governor*" insert the following: "*to serve terms of four (4) years after the initial appointments*";

On page 8, line 19, delete all language beginning with "*Following*" through "*(4)*" on line 25;

On page 9, line 3, delete "*(5)*" and insert "*(4)*" in lieu thereof;

On page 9, line 4, delete "*chairman,*" the first time it appears;

On page 9, line 12, delete "*(6)*" and insert "*(5)*" in lieu thereof;

On page 9, line 22, delete "*(7)*" and insert "*(6)*" in lieu thereof;

On page 10, line 12, after "*assets*" insert the following: "*after consultation with the office of investment and debt management*";

On page 21, line 12, delete all language beginning with "*The*" and ending with the period (.) on line 21 and insert in lieu thereof the following:

"*(1) The program administrator, on behalf of the Kentucky educational savings plan trust, shall submit annually, by the first day of October, a complete report of its operations for the preceding calendar year to the governor, the general assembly, and the state auditor of public accounts. The financial information required by this section shall be verified by the auditor of public accounts as provided in KRS 43.050.*

(2) The report shall include a detailed financial statement of the trust and the expenses incurred so that the cost of the fund can be determined and identified. The report shall include, but not be limited to, the following information concerning the trust:

(a) Assets and liabilities;

(b) Income and expenditures; and

(c) Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employes.

(3) The report shall also contain the following information:

(a) The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year;

(b) A description of the benefits provided by the trust and the number of participants in the trust; and

(c) Any other information which is relevant in order to make a full, fair, and effective disclosure of the operations of the trust.

(4) The trust shall have prepared every year, by a competent auditor familiar with trust funds, a report showing a complete evaluation of the trust and the adequacy of the rates of investments, which report shall contain such recommendations as the auditor considers advisable. The trust may at any time request the auditor to make any studies or evaluations to determine the adequacy of the rates of contribution, and such rates may be adjusted by the trust, as recommended by the auditor, effective as of the first of any fiscal year thereafter."

The Committee Amendment No. 2 to **SB 38** is as follows:

Amend printed copy of **SB 38** on page 16, line 2, by deleting "*pro rata*";

On page 16, line 8, by deleting "*a pro rata interest in*" and inserting "*an equal share of*";

On page 16, line 12, by deleting all language beginning with "*The*" the first time it appears through the period (.) on line 16; and

On page 16, line 21, by deleting "*proportionate*" and inserting "*equal*" in lieu thereof.

SB 72, AN ACT relating to university governing boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 164.130 IS REPEALED AND REENACTED AS KRS 164.130 AND AMENDED TO READ AS FOLLOWS:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen

(16) competent citizens of Kentucky appointed by the governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The [~~initial~~] terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. [~~Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term.~~] Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

SECTION 2. KRS 164.320 IS REPEALED AND REENACTED AS KRS 164.320 AND AMENDED TO READ AS FOLLOWS:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The [~~initial~~] terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. [~~Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term.~~] Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

SECTION 3. KRS 164.820 IS REPEALED AND REENACTED AS KRS 164.820 AND AMENDED TO READ AS FOLLOWS:

(1) The government of the University of Louisville is vested in a board of trustees consisting of seventeen (17) competent citizens of Kentucky appointed by the governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each. [~~except that whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term,~~] and in making such appointments the governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements the governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

Section 4. Any person who has been appointed for a six (6) year term on a university governing board shall serve four (4) years from the date of his appointment, at which time his term of office shall expire. The term of office of any person who on the effective date of this Act has served in excess of four (4) years shall expire on the effective date of this Act or when his successor is appointed and qualified. Nothing in this Act shall affect the validity of any action taken by a board at the time when the composition of the board included members who had served in excess of four (4) years.

The Committee on Labor and Industry reported **HB 441**, with Committee Substitute attached thereto, and **HB 476**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 441. AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the state treasury the coal workers' fund, hereinafter referred to as the "fund," to be administered by the Kentucky workers' compensation funding commission.

(2) Money in the fund shall be used for the payment of workers' compensation awards made pursuant to this chapter for injuries and diseases resulting from employment in the coal mining industry in accordance with the apportionment provisions in this chapter.

Section 2. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the Commonwealth enacted by the general assembly, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after November 1, 1987, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional *coal workers' fund* [~~special fund~~] assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987, an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

All funds generated from these assessments shall be credited to the coal workers' fund.

(c) *Any taxpayer engaged in the severing or processing of coal within this Commonwealth may elect to pay, in lieu of the insurance premium assessments provided for in paragraphs (a) and (b) of this subsection, an assessment at the following rates:*

1. Fifty cents (50) per ton of all coal severed or processed from an underground mine;

2. Thirty cents (30) per ton of all coal severed or processed from a surface mine.

The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet which in turn shall deposit the funds collected to the credit of the coal workers' fund within the Kentucky workers' compensation funding commission. The terms "coal," "severed," "severing," "taxpayer," "reporting period" and "processing," and any other terms applicable to the administration of the provisions of this paragraph, shall mean the same as such terms defined in KRS Chapter 143. Any other provisions of KRS Chapter 143 necessary to the administration of the provisions of this paragraph, including the penalties imposed under the provisions of KRS 143.990, are hereby adopted.

(d) Each taxpayer, electing to make payments pursuant to paragraph (c) of this subsection, shall notify the Kentucky workers' compensation funding commission of his election to make the payments at least one hundred eighty (180) days before the payments would become due. The election to pay the assessment subject to the provisions of paragraph (c) of this subsection shall remain in force at least one (1) year from the date the payments become due. Each taxpayer shall notify the Kentucky workers' compensation funding commission at least one hundred eighty (180) days before electing to discontinue making payments under paragraph (c) of this subsection.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) On October 31, 1988, and each October 31, thereafter, the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1, of each year, unless modified by the general assembly. *The assessment rates imposed in paragraph (c) of subsection (1) of this section shall not exceed fifty cents (50) per ton of coal.*

(3) All assessments imposed by *subsection (1)(a) of* this section, *except assessments imposed upon employes engaged in the severance or processing of coal,* shall be paid to the Kentucky workers' compensation funding commission and shall be credited to the benefit reserve fund within the Kentucky workers' compensation funding commission. *Assessments imposed upon employes engaged in the severance or processing of coal shall be credited to the coal workers' fund.*

(4) Such assessments shall be paid quarterly not later than the thirtieth (30th) day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(5) The assessments [~~herein~~] imposed *in subsections (1)(a) and (b) of this section* may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund *and the coal workers' fund* shall be required to maintain a central claim registry of all claims to which *they were* [~~it is~~] named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established by January 26. 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund *or the coal workers' fund.*

(9) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

The Committee Substitute to **HB 441** is as follows:

HB 441, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the state treasury the coal workers' fund, hereinafter referred to as the "fund," to be administered by the Kentucky workers' compensation funding commission.

(2) Money in the fund shall be used for the payment of workers' compensation awards made pursuant to this chapter for injuries and diseases resulting from employment in the coal mining industry in accordance with the apportionment provisions in this chapter.

Section 2. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the Commonwealth enacted by the general assembly, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after November 1,

1987, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional *coal workers' fund* [~~special fund~~] assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987, an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

All funds generated from these assessments shall be credited to the coal workers' fund.

(c) *Any taxpayer engaged in the severing or processing of coal within this Commonwealth may elect to pay, in lieu of the insurance premium assessments provided for in paragraphs (a) and (b) of this subsection, an assessment at the following rates:*

1. Fifty cents (50) per ton of all coal severed or processed from an underground mine;

2. Thirty cents (30) per ton of all coal severed or processed from a surface mine.

The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet which in turn shall deposit the funds collected to the credit of the coal workers' fund within the Kentucky workers' compensation funding commission. The terms "coal," "severed," "severing," "taxpayer," "reporting period" and "processing," and any other terms applicable to the administration of the provisions of this paragraph, shall mean the same as such terms defined in KRS Chapter 143. Any other provisions of KRS Chapter 143 necessary to the administration of the provisions of this paragraph, including the penalties imposed under the provisions of KRS 143.990, are hereby adopted.

(d) Each taxpayer, electing to make payments pursuant to paragraph (c) of this subsection, shall notify the Kentucky workers' compensation funding commission of his election to make the payments at least one hundred eighty (180) days before the payments would become due. The election to pay the assessment subject to the provisions of paragraph (c) of this subsection shall remain in force at least one (1) year from the date the payments become due. Each taxpayer shall notify the Kentucky workers' compensation funding commission at least one hundred eighty (180) days before electing to discontinue making payments under paragraph (c) of this subsection.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) On October 31, 1988, and each October 31, thereafter, the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate [~~imposed to produce seventy million dollars ($70,000,000)~~] or the *coal workers'* [~~additional special~~] fund assessment rate [~~imposed to produce forty million dollars ($40,000,000)~~] are likely to produce more or less than *is required to satisfy awards and claims payable from the respective funds* [~~seventy million dollars ($70,000,000) or forty million dollars ($40,000,000)~~] during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide *adequate funding* [~~seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively~~] during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1, of each year, unless modified by the general assembly. *The assessment rates imposed in paragraph (c) of subsection (1) of this section shall not exceed fifty cents (50) per ton of all coal severed or processed from an underground mine and thirty cents (30) per ton of all coal severed or processed from a surface mine.*

(3) All assessments imposed by *subsection (1)(a) of* this section, *except assessments imposed upon employers engaged in the severance or processing of coal,* shall be paid to the Kentucky workers' compensation funding commission and shall be credited to the benefit reserve fund within the Kentucky workers' compensation funding commission. *Assessments imposed upon employers engaged in the severance or processing of coal shall be credited to the coal workers' fund.*

(4) Such assessments shall be paid quarterly not later than the thirtieth (30th) day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(5) The assessments [~~herein~~] imposed *in subsections (1)(a) and (b) of this section* may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund *and the coal workers' fund* shall be required to maintain a central claim registry of all claims to which *they were* [~~it is~~] named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund *or the coal workers' fund.*

(9) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

HB 476, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a worker is separated from his employment for an indefinite period, his employer shall, within twenty-four (24) hours after such separation, furnish to such worker a separation notice (supplied by the department for employment services) setting forth the information required on such form.

(2) When twenty-five (25) or more workers are simultaneously separated for an indefinite period of time from employment in one establishment, the employer may furnish to authorized representatives of the department for employment services, information with respect to such workers on a "mass separation notice," provided, however, that the employer has, by prior agreement, arranged with an authorized representative or the aforesaid agency for the submission of a "mass separation notice" in lieu of individual separation notices.

Section 2. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306(k) of the Internal Revenue Code,

but only if such service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority but only if such service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;

(3) Service in the employ of an organization described in paragraphs (e) of subsection (1) of KRS 341.050 but only if such service is not defined as "covered employment" in paragraphs (e) and (h) of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions or municipalities or instrumentalities thereof but only if such service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official; or

(b) As a member of a legislative body of this state or a political subdivision thereof; or

(c) As a member of the judiciary of this state or political subdivision thereof; or

(d) As a member of the state national guard or air national guard; or

(e) As an employe serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(f) In a position which, under or pursuant to the state law is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week or by reason of service on any appointed state or local board or commission; or

(g) As a part-time staff employe of the general assembly, or any temporary, part-time or seasonal employe of the Commonwealth or political subdivision thereof if not required to be covered employment pursuant to section 3309 of the Internal Revenue Code, as amended, as a requirement of section 3304 of that code, as amended, for approval of the state's unemployment insurance law;

(5) Except as provided in paragraph (d) of subsection (1) of KRS 341.050 service performed in the employ of any other state or any political subdivision thereof, or of the United States government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the Congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under section 3304 of the Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress. The secretary may enter into agreements with the proper agencies under such act of Congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this chapter;

(7) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(8) Service performed in the employ of a foreign government (including service as a consular, or other officer or employe or a nondiplomatic representative), or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employes of the United States government or of an instrumentality thereof; and

(b) The secretary finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States government and of instrumentalities thereof;

(9) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four (4) years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) Service performed by a worker under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business; or

(b) Such individual was regularly employed (as determined under paragraph (a) above) by such employing unit in the performance of such service during the preceding calendar quarter;

(13) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code (other than an organization described in section 401(a)), or under section 521 of the Internal Revenue Code, if the remuneration for such service is less than fifty dollars ($50);

(14) Service performed in the employ of an international organization;

(15) Service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of such election;

(16) Service performed in the employ of a school, college, or university, if such service is performed:

(a) By a student who is enrolled and is regularly attending classes at such school, college or university; or

(b) By the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

2. Such employment will not be covered by any program of unemployment insurance;

(17) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(20) Service defined in KRS 341.050(1)(d) and (e) performed *for* [~~in~~] a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or in a custodial or penal institution by an inmate of such institution.

Section 3. KRS 341.145 is amended to read as follows:

(1) The secretary may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigation, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.

(2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

(3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to employers' reserve accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account. Provided, that if the secretary of labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the federal unemployment tax act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

(5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the U.S. secretary of labor or both, whereby:

(a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the department certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the department requests the other state to recover the benefits; and

(b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the department the facts involved and that the individual is liable to repay the benefits and the state requests the department to recover the benefits; and

(c) Provided there is in effect a reciprocal agreement between this state and the U.S. secretary of labor, as authorized by section 303 (g)(2) of the social security act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the U.S. secretary of labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

Section 4. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the department, on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3) (a) Any employing unit not otherwise subject to this chapter that files with the department its written election to become a subject employer for not less than two calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before April 15 of such year, it has filed with the department a written notice to that

effect.

(b) Any employing unit for which services that do not constitute covered employment are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the department a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraphs (e), (f) or (g) but only if on or before April 15 of such year, the employing unit has filed with the department a written request to terminate service as "covered employment."

(4) An employing unit that becomes a subject employer under subsection *(7)* [~~(5)~~] of KRS 341.070, shall become subject as of the date of acquisition.

(5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 5. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the department in Frankfort by each subject employer to the department for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties and interest due or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. *A person, employing unit, or entity who enters into a verbal or written agreement with another, or between whom there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties (a) to have work performed consisting of the removal, excavation or drilling of soil, rock or mineral, or the cutting or removal of timber from land, or (b) to have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.*

Section 6. KRS 341.272 is amended to read as follows:

(1) Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum

rate of contributions shall remain in effect until the employer has employed persons in this state for not less than twelve (12) consecutive calendar quarters ending as of September 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270.

(2) On or after January 1, 1989, any new domestic or foreign proprietorship or partnership engaged in the contract construction trades shall be subject to the provisions of subsection (1) of this section.

Section. 7. KRS 341.310 is amended to read as follows:

(1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the cabinet upon all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. [~~This lien shall be for a sum equal to the amount at any time due from each subject employer to the cabinet on account of contributions, interest and penalties thereon.~~] The lien shall commence from such time as *any assessment becomes delinquent and it shall continue until the amount of the original assessment and any subsequent assessments of liability for contributions, interest, penalties or fees are fully paid. The lien shall attach to all interest in property, either real or personal, then owned or subsequently acquired by the person against whom the assessment is made. The cabinet may file notice of the lien with the county clerk of any county or counties in which the subject employer's business or residence is located, or in any county in which the subject employer has interest in property and such notice shall be recorded in the same manner as notices of lis pendens are and the file shall be designated "miscellaneous state tax liens." Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same subject employer. Upon request, the cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 335, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of five dollars ($5) for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien and shall not be the responsibility of the Commonwealth.* [~~the contributions, interest or penalties become due~~]

(2) [~~The secretary may file notice of this lien with the county clerk of any county where the subject employer has property, giving the name of the subject employer, his address, and the amount of the lien. The clerk shall file same in the same manner as lis pendens are filed. The files shall be designated "Miscellaneous State Tax Liens." The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of $1.25 for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the Commonwealth, or the department be required to pay same.~~

~~(3)~~] In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the liened property or any part of it are performed by the appropriate officers of the circuit court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.

(3)[~~(4)~~] (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred and twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the cabinet in accordance with the provisions set forth in such bond.

(b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Section 8. KRS 341.330 is amended to read as follows:

(1) Not later than five (5) years after the date on which any contributions, *interest* or penalties were paid, an employing unit which has paid such contributions, *interest* or penalties may make application for an adjustment in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made*; except that no such application may be made in connection with any payment made as a result of any administrative determination affecting that employing unit's liability, contribution rate, or amount of contributions where no application for review by the commission was made as provided in subsection (2) of KRS 341.430, or where such review was made but no such adjustment was determined by the commission to be due.*

(2) If such contributions, *interest* or penalties or any portion thereof were erroneously collected, the employing unit shall be allowed to make an adjustment thereof, without interest, in connection with subsequent contribution payments by it; or, if such adjustment cannot be made, such amount shall be refunded, without interest, from the funds into which such contributions, *interest* or penalties were paid.

(3) For like cause and within the same period adjustment or refund may be so made by the secretary on his own initiative.

Section 9. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341.380:

(1) Eighty percent (80%), adjusted to the nearest multiple of one dollar ($1), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits. *For the purpose of this subsection, wages shall also include amounts earned by benefit claimants in self employment;*

(2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar ($1)) in the form of remuneration in lieu of notice; and

(3) (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment under a plan maintained or contributed to a chargeable or base-period employer shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week; except that the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by the worker for the pension, retirement or retired pay, annuity, or other similar periodic payment.

(b) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by paragraph (a) of this subsection.

(c) If Public Law 94-566 or Public Law 96-364 or the federal act which amends either for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then, subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent, become inoperative as to such deductions.

Section 10. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter *or any other state's unemployment insurance statutes or any United States department of labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States department of labor as provided in KRS 341.145,* while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the department for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in subsection (2) of KRS 341.300 for collection of past due contributions and any sums so collected shall be credited to the pooled account. Unless there has been a false statement, misrepresentation, or concealment of material information[~~,~~] by a recipient of benefits, there shall be no recoupment or recovery of an improperly paid benefit, *except by deduction from any future benefits payable to him under this chapter,* if the benefit was paid as a result of departmental error. *For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of departmental error.*

(2) At or after the commencement of an action under subsection (1) of this section attachment may be had against property of the recipient of improperly paid benefits in the manner provided in subsection (3) of KRS 341.300.

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2) and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one calendar year from the date of the first notice, interest at the rate of one and five tenths percent (1.5%) per month or any part thereof shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

Section 11. KRS 341.430 is amended to read as follows:

(1) The commission may on its own motion affirm, modify, or set aside any decision of a referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The commission may remove to itself or transfer to another referee the proceedings on any claims pending before a referee.

(2) An application for review by the commission of any administrative determination affecting an employing unit's liability, contribution rate, *or* amount of contributions[~~, or claim for refund~~] may be filed by such employing unit within twenty (20) days after notice of such determination was mailed to such employing unit's last known address.

(3) Any proceedings before the commission shall be heard and determined by the entire commission composed of three (3) members, except that no member of the commission shall participate in any case in which he is an interested party, and the chairman shall act alone in the absence or disqualification of any other member. The commission shall promptly notify the parties to any proceedings of its findings and decisions.

Section 12. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including *interest* [~~penalties~~], and shall continue the payment of all contributions and *interest* [~~penalties~~] due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and *interest* [~~penalties~~] of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of such delinquency within six (6) months after the department has notice of the succession or acquisition.

(2) The liability for delinquent contributions and *interest* [~~penalties~~] imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors and if the delinquency has been reduced to judgment the order of execution on such judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a portion of the organization, trade or business from a subject employer, and who is, or by reason of such succession or acquisition becomes, a subject employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such succession or acquisition as *proposed* [~~agreed upon~~] by the parties in interest *to the secretary for his approval or disapproval* [~~and approved by the secretary~~], and the taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion. *In the absence of an approved agreement the secretary may, not sooner than three (3) calendar months following the date of succession or acquisition, establish the extent of succession based upon the proportion of gross payroll reported by the predecessor in the most recently completed calendar quarter preceding the date of succession or acquisition for workers employed by the successor subsequent to that date; or upon such other basis as may be set forth in regulation.*

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, *either in whole or in part,* which was not a subject employer prior to such succession or acquisition [~~of a predecessor's reserve account, either in whole or in part~~], shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Section 13. KRS 341.570 is amended to read as follows:

(1) In any civil action to enforce the provisions of this chapter or in which the commission or the cabinet is an interested party, the commission or the cabinet may be represented by any qualified attorney who is designated by the secretary for that purpose. The expenses and compensation of such special attorney and any experts employed in connection with such proceedings shall be considered a proper cost of the administration of this chapter.

(2) All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued under it, shall be prosecuted by the attorney general of this state, or, at his request and under his direction,

by the county attorney, *or commonwealth attorney,* of any county in which the employing unit has a place of business or the violator resides.

The Committee Substitute to **HB 476** is as follows:

HB 476. AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306(k) of the Internal Revenue Code, but only if such service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority but only if such service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;

(3) Service in the employ of an organization described in paragraphs (e) of subsection (1) of KRS 341.050 but only if such service is not defined as "covered employment" in paragraphs (e) and (h) of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions or municipalities or instrumentalities thereof but only if such service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official; or

(b) As a member of a legislative body of this state or a political subdivision thereof; or

(c) As a member of the judiciary of this state or political subdivision thereof; or

(d) As a member of the state national guard or air national guard; or

(e) As an employe serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(f) In a position which, under or pursuant to the state law is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week or by reason of service on any appointed state or local board or commission; or

(g) As a part-time staff employe of the general assembly, or any temporary, part-time or seasonal employe of the Commonwealth or political subdivision thereof if not required to be covered employment pursuant to section 3309 of the Internal Revenue Code, as amended, as a requirement of section 3304 of that code, as amended, for approval of the state's unemployment insurance law;

(5) Except as provided in paragraph (d) of subsection (1) of KRS 341.050 service performed in the employ of any other state or any political subdivision thereof, or of the United States government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the Congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the

provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under section 3304 of the Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress. The secretary may enter into agreements with the proper agencies under such act of Congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this chapter;

(7) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(8) Service performed in the employ of a foreign government (including service as a consular, or other officer or employe or a nondiplomatic representative), or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employes of the United States government or of an instrumentality thereof; and

(b) The secretary finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States government and of instrumentalities thereof;

(9) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four (4) years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) Service performed by a worker under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business; or

(b) Such individual was regularly employed (as determined under paragraph (a) above) by such employing unit in the performance of such service during the preceding calendar quarter;

(13) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code (other than an organization described in section 401(a)), or under section 521 of the Internal Revenue Code, if the remuneration for such service is less than fifty dollars ($50);

(14) Service performed in the employ of an international organization;

(15) Service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of such election;

(16) Service performed in the employ of a school, college, or university, if such service is performed:

(a) By a student who is enrolled and is regularly attending classes at such school, college or university; or

(b) By the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

2. Such employment will not be covered by any program of unemployment insurance;

(17) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(20) Service defined in KRS 341.050(1)(d) and (e) performed *for* [~~in~~] a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or in a custodial or penal institution by an inmate of such institution.

Section 2. KRS 341.145 is amended to read as follows:

(1) The secretary may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigation, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.

(2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely

within this state or within one of such other states.

(3) (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to employers' reserve accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account. Provided, that if the secretary of labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the federal unemployment tax act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

(5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the U.S. secretary of labor or both, whereby:

(a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the department certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the department requests the other state to recover the benefits; and

(b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the department the facts involved and that the individual is liable to repay the benefits and the state requests the department to recover the benefits; and

(c) Provided there is in effect a reciprocal agreement between this state and the U.S. secretary of labor, as authorized by section 303 (g)(2) of the social security act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the U.S. secretary of labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

Section 3. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered

a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) and (5) of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the department, on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3) (a) Any employing unit not otherwise subject to this chapter that files with the department its written election to become a subject employer for not less than two calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before April 15 of such year, it has filed with the department a written notice to that effect.

(b) Any employing unit for which services that do not constitute covered employment are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two (2) calendar years, only if on or before April 15 of such year such employing unit has filed with the department a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraphs (e), (f) or (g) but only if on or before April 15 of such year, the employing unit has filed with the department a written request to terminate service as "covered employment."

(4) An employing unit that becomes a subject employer under subsection *(7)* [~~(5)~~] of KRS 341.070, shall become subject as of the date of acquisition.

(5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 4. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the department in Frankfort by each subject employer to the department for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties and interest due or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall

render said contractor directly liable for such contributions, penalties and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. *A person, employing unit, or entity who enters into a verbal or written agreement with another, or between whom there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties (a) to have work performed consisting of the removal, excavation or drilling of soil, rock or mineral, or the cutting or removal of timber from land, or (b) to have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.*

Section 5. KRS 341.272 is amended to read as follows:

(1) Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum rate of contributions shall remain in effect until the employer has employed persons in this state for not less than twelve (12) consecutive calendar quarters ending as of September 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270.

(2) On or after January 1, 1989, any new domestic or foreign proprietorship or partnership engaged in the contract construction trades shall be subject to the provisions of subsection (1) of this section.

Section 6. KRS 341.310 is amended to read as follows:

(1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the cabinet upon all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. [~~This lien shall be for a sum equal to the amount at any time due from each subject employer to the cabinet on account of contributions, interest and penalties thereon.~~] The lien shall commence from such time as *any assessment becomes delinquent and it shall continue until the amount of the original assessment and any subsequent assessments of liability for contributions, interest, penalties or fees are fully paid. The lien shall attach to all interest in property, either real or personal, then owned or subsequently acquired by the person against whom the assessment is made. The cabinet may file notice of the lien with the county clerk of any county or counties in which the subject employer's business or residence is located, or in any county in which the subject employer has interest in property and such notice shall be recorded in the same manner as notices of lis pendens are and the file shall be designated "miscellaneous state tax liens." Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same subject employer. Upon request, the cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of five dollars ($5) for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien and shall not be the responsibility of the Commonwealth.* [~~the contributions, interest or penalties become due~~]

(2) [~~The secretary may file notice of this lien with the county clerk of any county where the subject employer has property, giving the name of the subject employer, his address, and the amount of the lien. The clerk shall file same in the same manner as lis pendens are filed. The files shall be designated "Miscellaneous State Tax Liens." The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of $1.25 for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the Commonwealth, or the department be required to pay same.~~

(3)] In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the liened property or any part of it are performed by the appropriate officers of the circuit court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.

(3)[~~(4)~~] (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred and twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the cabinet in accordance with the provisions set forth in such bond.

(b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Section 7. KRS 341.330 is amended to read as follows:

(1) Not later than five (5) years after the date on which any contributions, *interest* or penalties were paid, an employing unit which has paid such contributions, *interest* or penalties may make application for an adjustment in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made*; except that no such application may be made in connection with any payment made as a result of any administrative determination affecting that employing unit's liability, contribution rate, or amount of contributions where no application for review by the commission was made as provided in subsection (2) of KRS 341.430, or where such review was made but no such adjustment was determined by the commission to be due.*

(2) If such contributions, *interest* or penalties or any portion thereof were erroneously collected, the employing unit shall be allowed to make an adjustment thereof, without interest, in connection with subsequent contribution payments by it; or, if such adjustment cannot be made, such amount shall be refunded, without interest, from the funds into which such contributions, *interest* or penalties were paid.

(3) For like cause and within the same period adjustment or refund may be so made by the secretary on his own initiative.

Section 8. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341.380:

(1) Eighty percent (80%), adjusted to the nearest multiple of one dollar ($1), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits. *For the purpose of this subsection, wages shall also include amounts earned by benefit claimants in self employment provided such earnings otherwise meet the definition of wages as contained in KRS 341.030*;

(2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar ($1)) in the form of remuneration in lieu of notice; and

(3) (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment under a plan maintained or contributed to a chargeable or base-period employer shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment

which is reasonably attributable to such week; except that the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by the worker for the pension, retirement or retired pay, annuity, or other similar periodic payment.

(b) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by paragraph (a) of this subsection.

(c) If Public Law 94-566 or Public Law 96-364 or the federal act which amends either for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then, subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent, become inoperative as to such deductions.

Section 9. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter *or any other state's unemployment insurance statutes or any United States department of labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States department of labor as provided in KRS 341.145*, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the department for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in subsection (2) of KRS 341.300 for collection of past due contributions and any sums so collected shall be credited to the pooled account. Unless there has been a false statement, misrepresentation, or concealment of material information[,] by a recipient of benefits, there shall be no recoupment or recovery of an improperly paid benefit, *except by deduction from any future benefits payable to him under this chapter*, if the benefit was paid as a result of departmental error. *For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of departmental error.*

(2) At or after the commencement of an action under subsection (1) of this section attachment may be had against property of the recipient of improperly paid benefits in the manner provided in subsection (3) of KRS 341.300.

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2) and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one calendar year from the date of the first notice, interest at the rate of one and five tenths percent (1.5%) per month or any part thereof shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

(6) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter. The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 10. KRS 341.430 is amended to read as follows:

(1) The commission may on its own motion affirm, modify, or set aside any decision of a referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The commission may remove to itself or transfer to another referee the proceedings on any claims pending before a referee.

(2) An application for review by the commission of any administrative determination affecting an employing unit's liability, contribution rate, *or* amount of contributions[~~, or claim for refund~~] may be filed by such employing unit within twenty (20) days after notice of such determination was mailed to such employing unit's last known address.

(3) Any proceedings before the commission shall be heard and determined by the entire commission composed of three (3) members, except that no member of the commission shall participate in any case in which he is an interested party, and the chairman shall act alone in the absence or disqualification of any other member. The commission shall promptly notify the parties to any proceedings of its findings and decisions.

Section 11. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including *interest* [~~penalties~~], and shall continue the payment of all contributions and *interest* [~~penalties~~] due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and *interest* [~~penalties~~] of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of such delinquency within six (6) months after the department has notice of the succession or acquisition.

(2) The liability for delinquent contributions and *interest* [~~penalties~~] imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors and if the delinquency has been reduced to judgment the order of execution on such judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a portion of the organization, trade or business from a subject employer, and who is, or by reason of such succession or acquisition becomes, a subject employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such succession or acquisition as *proposed* [~~agreed upon~~] by the parties in interest *to the secretary for his approval or disapproval* [~~and approved by the secretary~~], and the taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion. *In the absence of an approved agreement the secretary may, not sooner than three (3) calendar months following the date of succession or acquisition, establish the extent of succession based upon the proportion of gross payroll reported by the predecessor in the most recently completed calendar quarter preceding the date of succession or acquisition for workers employed by the successor subsequent to that date; or upon such other basis as may be set forth in regulation.*

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, *either in whole or in part,* which was not a subject employer prior to such succession or acquisition [~~of a predecessor's reserve account, either in whole or in part~~], shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Section 12. KRS 341.570 is amended to read as follows:

(1) In any civil action to enforce the provisions of this chapter or in which the commission or the cabinet is an interested party, the commission or the cabinet may be represented by any qualified attorney who is designated by the secretary for that purpose. The expenses and compensation of such special attorney and any experts employed in connection with such proceedings shall be considered a proper cost of the administration of this chapter.

(2) All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued under it, shall be prosecuted by the attorney general of this state, or, at his request and under his direction, by the county attorney, *or commonwealth attorney,* of any county in which the employing unit has a place of business or the violator resides.

Orders of the Day

HB 564, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 1 to **HB 564**. Agreed.

Representative Arnold moved that **HB 564**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 23, 1988 roll call on **HB 564** - Appendix A.)

HB 564, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 564**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 463, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 463**. Agreed.

Representative Priddy moved that **HB 463**, as amended, be passed.

On the roll call the vote was: Yeas 59, Nays 34. (See February 23, 1988 roll call on **HB 463** - Appendix A.)

HB 463, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 463**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 485 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 485** be passed.

On the roll call the vote was: Yeas 16, Nays 77. (See February 23, 1988 roll call on **HB 485** - Appendix A.)

HB 485 was defeated.

Representative A. Jones moved that the vote by which **HB 485** was defeated be reconsidered and said motion be placed on the table. Agreed.

SB 77 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **SB 77** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 23, 1988 roll call on **SB 77** - Appendix A.)

SB 77 was passed and the title agreed to.

Representative Ackerson moved that the vote by which **SB 77** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 309 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 309** be passed.

Representative Guenthner moved that **HB 309** be laid on the Clerk's Desk.

On the roll call the vote was yeas 28-Allen, Bronger, J. Brown, Callahan, L. Clark, Crupper, Cyrus, Deskins, Donnermeyer, Farrow, Gedling, Gregory, Guenthner, J. Harper, A. Jones, Kerr, Layman, Little, Mack, Maggard, B. Richardson, Ridley, Robinson, B. Smith, Strong, Turner, Walker, Yates. Nays 55-Ackerson, Adams, Altman, Ark, Arnold, Ballard, Blandford, Blevins, M. Brown, Bruce, Burch, Casebier, Castleman, Clarke, Cline, Curd, Ford, Freibert, Geveden, Gray, Handy, K. Harper, Hoover, Hourigan, Jackson, Johnson, T. Jones, Lear, Lefevers, Long, Lundergan, Lyne, Mason, McElroy, Meyer, Moberly, Nett, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, Riner, Scorsone, Seum, Siler, R. Smith, Stumbo, White, Will.

The motion that **HB 309** be laid on the Clerk's Desk was rejected.

On the roll call the vote was: Yeas 42, Nays 49. (See February 23, 1988 roll call on **HB 309** - Appendix A.)

HB 309 was defeated.

Representative Farrow moved that the vote by which **HB 309** was defeated be reconsidered and said motion be placed on the table. Agreed.

Representative Richards moved that the House refuse to recede from the Committee Substitute to **SB 2**. Agreed.

The following Conference Committee was appointed on **SB 2**: Representative O'Brien, Chairman; Representatives Layman and Bruce.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 758, by Representative Deskins: AN ACT relating to oil and gas.

HB 759, by Representatives Burch, Noe, J. Harper and Blevins: AN ACT relating to medical laboratories.

HB 760, by Representative Hancock: AN ACT relating to the withholding of federal income tax from the salaries of public employes.

HB 761, by Representative O'Brien: AN ACT relating to use of influence by legislators.

HB 762, by Representatives Clarke and Stumbo: AN ACT relating to coal severance and processing taxes.

HB 763, by Representatives Noland, Lefevers and Layman: AN ACT relating to fees and costs in the district court.

HB 764, by Representatives Noe, Barrows, Stumbo, Richards, Adams, T. Jones, Geveden, Ridley and Lefevers: AN ACT relating to teacher retirement and declaring an emergency.

HB 765, by Representatives Curd and Worthington: AN ACT relating to boards of education.

HB 766, by Representatives J. Harper, Bruce, Nett, Gray, Seum, Todd, J. Brown, M. Brown, White, Moberly, Noland. Hoover, A. Jones, Freibert and Mack: AN ACT relating to crimes and punishments.

HB 767, by Representative Scorsone: AN ACT relating to crimes and punishments.

HR 108, by Representatives McElroy, Yates, Cyrus, Jackson and Maggard: A RESOLUTION congratulating Representative Richard Gephardt.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 670, HB 570, HB 731, HB 633.**

Education: **HB 708, HB 716.**

Labor and Industry: **HCR 64, HB 648, HB 688, HB 632, HB 672, HB 705, HB 640, HB 679.**

Health and Welfare: **HB 573, HB 704, HB 610.**

Natural Resources and Environment: **HB 651, HB 500, HB 495, HB 733.**

Report of Committees

The Committee on Judiciary-Civil reported **HB 26** with Committee Amendment attached thereto, **HB 173** with Committee Amendment attached thereto, **HB 414** with Committee Amendment attached thereto, **HB 582**, **HCR 30** with Committee Amendment attached thereto, and **SB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 26, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.230 is amended to read as follows:

(1) The small claims division shall have jurisdiction, concurrent with that of the district court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed *twenty-five hundred* [~~one thousand~~] dollars *($2,500)* [~~($1,000)~~] exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of *twenty-five hundred* [~~one thousand~~] dollars *($2,500)* [~~($1,000)~~] exclusive of interest and costs.

(3) The division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

The Committee Amendment No. 1 to **HB 26** is as follows:

Amend printed copy of **HB 26** on page 1, line 8, delete "*twenty-five hundred*" and insert in lieu thereof "*fifteen hundred*"; and

On page 1, line 8, delete "*($2,500)*" and insert in lieu thereof "*($1,500)*"; and

On page 1, line 13, delete "*twenty-five hundred*" and insert in lieu thereof "*fifteen hundred*"; and

On page 1, line 14, delete "*($2,500)*" and insert in lieu thereof "*($1,500)*"; and

On page 1, after line 19, insert the following:

"Section 2. KRS 24A.120 is amended to read as follows:

District court shall have exclusive jurisdiction in:

(1) Civil cases in which the amount in controversy does not exceed *four thousand dollars ($4,000)* [~~twenty-five hundred dollars ($2,500)~~], exclusive of interest and costs except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of district court;

(2) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in circuit court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(3) Matters not provided for by statute to be commenced in circuit court shall be deemed to be non-adversarial within the meaning of subsection (2) of this section and therefore are within the jurisdiction of the district court."

HB 173, AN ACT relating to mechanics' and materialmen's liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.010 is amended to read as follows:

(1) Any person who performs labor or furnishes materials, for the erection, altering or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.

(2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than $1,000 and one hundred twenty (120) days on claims in excess of $1,000 after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.

(4) No person who has not contracted directly with the *owner* [~~owner-occupant~~] or his authorized agent shall acquire a lien under this section on an owner-occupied [~~single or double family~~] dwelling, [~~or~~] the appurtenances or additions thereto*, or upon other improvements to the real property or real property contiguous thereto and held by the same owner, upon which the owner-occupant's dwelling is located* unless he notifies in writing the *owner* [~~owner-occupant~~] of the property to be held liable or his authorized agent not more than ten (10) days after the first item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the *owner* [~~owner-occupant~~] of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3). Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an *owner of property as described in this subsection* [~~owner-occupant of a single or double family dwelling~~] has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the authorized agent under this subsection.

(5) For purposes of this section, "labor" includes but is not limited to, all work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not.

The Committee Amendment No. 1 to **HB 173** is as follows:

Amend printed copy of **HB 173** on page 3, line 12, delete "*owner*" and remove the brackets around and strikes through "[~~owner-occupant~~]"; and

On page 3, line 14, delete the "," and remove the brackets and strikes from all language so bracketed and struck through on the line; and

On page 3, line 19, delete "*owner*" and remove the brackets around and strikes through "[~~owner-occupant~~]"; and

On page 3, line 26, delete "*owner*"; and

On page 4, line 1, remove the brackets around and strikes through "[~~owner-occupant~~]"; and

On page 4, lines 6-7, delete the underlined language; and

On page 4, lines 7-8, remove the brackets and strikes from all language so bracketed and struck through.

HB 414, AN ACT relating to juries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.090 is amended to read as follows:

(1) Any prospective juror, age sixty-five (65) or older, as of the date summoned to report for jury service, may, at the option of such prospective juror, decline jury service by giving written notice to the court of such intention on or before the date that the prospective juror has been summoned to report for jury service. The written notice shall include the date of birth of the prospective juror.

(2) Except as provided in subsection (1) of this section, there shall be no automatic exemptions from jury service.

The Committee Amendment No. 1 to **HB 414** is as follows:

Amend printed copy of **HB 414** on page 1, lines 11-12, delete the underlining from "*there shall be no automatic exemptions from jury service.*"

HB 582, AN ACT relating to uniform limited partnerships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires, the term:

(1) "Certified of limited partnership" means the certificate referred to in Section 8 of this Act, or the certificate of limited partnership as amended or restated.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in Section 19 of this Act.

(4) "Foreign limited partnership" means a limited partnership formed under the laws of any state other than this state and having as partners one (1) or more general partners and one (1) or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and is named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(7) "Limited partnership" or "domestic limited partnership" means a partnership formed by two (2) or more persons under the laws of this state and having one (1) or more general partners and one (1) or more

limited partners.

(8) "Partner" means a limited partner or general partner.

(9) "Partnership agreement"means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person; partnership; limited partnership, which is either domestic or foreign; trust; estate; association; or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

SECTION 2. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the word "Limited" or its abbreviation, "Ltd.";

(2) Shall not contain the name of a limited partner unless:

(a) That name is also the name of a general partner or the corporate name of a corporate general partner; or

(b) The business of the limited partnership had been carried on under that name before the admission of that limited partner; and

(3) Shall not be the same as, and shall be distinguishable from , the name of any corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or foreign limited partnership in this state, or a name which at that time is reserved by another person under the laws of this state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this Act and to adopt that name:

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name:

(c) Any foreign limited partnership intending to register in this state and adopt that name; or

(d) Any person intending to organize a foreign limited partnership and intending to have it register in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic limited partnership or foreign limited partnership, it shall reserve the name for the exclusive use of the applicant for a nonrenewable period of one hundred twenty (120) days. Once having so reserved a name, the same applicant shall not again reserve the same name until more than sixty (60) days after the expiration of the last one hundred twenty (120) day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing with the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Each limited partnership shall continuously maintain in this state:

(1) An office which may, but need not be, a place of its business in this state, at which shall be kept the records required by Section 5 of this Act to be maintained; and

(2) An agent for service of process on the limited partnership, which agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Each limited partnership shall keep, at the office referred to in subsection (1) of Section 4 of this Act, the following records:

(a) A current list of the full names and last known business, residence or mailing addresses of all partners, separately identifying in alphabetical order the general partners and the limited partners;

(b) A copy of the certificate of limited partnershp and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate was executed;

(c) Copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of any then effective written partnership agreement and of any financial statements of the limited partnership for the three (3) most recent years; and

(e) Unless contained in a written partnership agreement, a writing settin out:

1. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

2. The times at which, or events upon the happening of which, any additional contributions agreed to be made by each partner are to be made;

3. Any right of a partner to receive distributions, or of a general partner to make distributions to a partner, that includes a return of all or any part of the partner's contribution; and

4. Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(2) Records kept under this section may be inspected and copied during ordinary business hours at the reasonable request, and at the expense, of any partner.

SECTION 6. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A limited partnership may carry on any business that a partnership without limited partners may carry on.

SECTION 7. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as provided in the partnershp agreement, a partner may lend money to, and transact other business with, the limited partnership and, subject to other applicable law, shall have the same rights and obligations with respect thereto as a person who is not a partner.

SECTION 8. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) In order to form a limited partnership, a certificate of limited partnership shall be executed and filed with the secretary of state. The certificate shall set forth:

(a) The name of the limited partnership;

(b) The address of the office and the name and address of the agent for service of process required to be maintained by Section 4 of this Act;

(c) The name and the business address of each general partner;

(d) A mailing address for the limited partnership;

(e) The latest date upon which the limited partnership is to dissolve; and

(f) Any other matters the general partners determine to include therein.

(2) A limited partnership shall be formed at the time of the filing of the certificate of limited partnership with the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of limited partnership may be amended by filing a certificate of amendment with the secretary of state. The certificate of amendment shall set forth:

(a) The name of the limited partnership;

(b) The date of filing the certificate of limited partnership; and

(c) The amendment to the certificate of limited partnership.

(2) (a) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events, shall be filed:

1. The admission of a new general partner;

2. The withdrawal of a general partner;

3. The continuation of the business under Section 44 of this Act after an event of withdrawal of a general partner;

4. A change in name of the limited partnershp; or

5. A change in the address of the office or the name or address of the agent for service of process required to be maintained by Section 4 of this Act.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made, or that any arrangements or other facts described in the certificate have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

(c) A certificate may be amended at any time for any other proper purpose the general partners determine.

(3) If an amendment to a certificate is filed within the thirty (30) day period referred to in subsection (2) of this section, no person shall be liable because the amendment was not filed earlier.

(4) Unless otherwise provided in this Act or in the certificate of amendment, a certificate of amendment

shall be effective at the time of its filing with the secretary of state.

(5) A limited partnership may, if desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect and operative as a result of filing with the secretary of state one (1) or more certificates of amendment and it may, at the same time, further amend its certificate of limited partnership.

(6) If the restated certificate of limited partnership merely restates and integrates, but does not further amend the certificate of limited partnership as theretofore amended, it shall be specifically designated in its heading as a "restated certificate of limited partnership". If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership, as theretofore amended, it shall be specifically designated in its hearing as an "amended and restated certificate of limited partnership". A restated, or amended and restated certificate of limited partnership shall be executed and filed in the same manner as a certificate of amendment.

(7) Upon the filing of a restated, or amended and restated, certificate of limited partnership with the secretary of state, or upon its future effective date or time as provided for therein, the initial certificate of limited partnership, as amended, shall be superseded. Thereafter, the restated certificate of limited partnership, including further amendments made thereto, shall be the certificate of limited partnership of the limited partnership.

SECTION 10. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A certificate of limited partnership shall be canceled upon the dissolution and the completion of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed with the secretary of state and shall set forth:

(1) The name of the limited partnership;

(2) The date of filing of certificate of limited partnership;

(3) The reason for filing the certificate of cancellation;

(4) The future effective date, which shall be a date certain, of cancellation if cancellation is not to be effective upon the filing of the certificate of cancellation; and

(5) Any other information the general partners filing the certificate of cancellation determine to include therein.

SECTION 11. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Each certificate required by this Act to be filed with the secretary of state shall be executed in the following manner:

(a) An original certificate of limited partnershp signed by all general partners;

(b) A certificate of amendment, signed by at least one (1) general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation, signed by all general partners.

(2) Any person may sign a certificate of limited partnership, certificate of amendment or certificate of cancellation by an attorney-in-fact, but a power of attorney to sign a certificate of amendment relating to the admission of a general partner shall specifically describe the admission.

(3) The execution of a certificate of limited partnership, certificate of amendment or certificate of cancellation by a general partner shall constitute an affirmation under the penalties of perjury that the facts stated therein are true.

SECTION 12. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

If a person required by Section 11 of this Act to execute a certificate of limited partnership, certificate of amendment or certificate of cancellation fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the circuit court to direct the execution of the certificate. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, the court shall order the secretary of state to record an appropriate certificate.

SECTION 13. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) signed copies of the certificate of limited partnership, any certificate of amendment, certificate of cancellation, other certificate authorized to be filed by any party under this Act or any court order relating thereto shall be delivered to the secretary of state. It shall not be necessary for a person who executes a certificate as an agent or fiduciary to exhibit evidence of his authority as a prerequisite to filing.

(2) Unless the secretary of state finds that a certificate does not conform to law, upon receipt of the filing fees provided for in subsection (4) of Section 11 of this Act, the secretary of state shall:

(a) Endorse on each duplicate original copy the word "filed" and the day, month, and year of the filing thereof;

(b) File one (1) duplicate original copy in its office; and

(c) Return the other duplicate original to the person who filed it or his representative who shall record one (1) duplicate original of the certificate in the office of the county clerk in which the office referred to in Section 11 of this Act is located.

(3) Upon the filing or effective date of a certificate of amendment or court order of amendment with the secretary of state, the certificate of limited partnership shall be amended as set forth in the certificate of amendment or court-ordered certificate of amendment; and, upon the filing or effective date of a certificate of cancellation or a court order of cancellation, the certificate of limited partnership shall be canceled.

(4) The secretary of state shall receive a fee of ten dollars ($10) if the certificate does not exceed five (5) pages. For each additional page the secretary of state shall receive a fee of one dollar ($1).

SECTION 14. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

If a certificate of limited partnership, certificate of amendment or certificate of cancellation contains a false statement, a person who suffers loss by reliance on that statement may recover damages for the loss from:

(1) Any person who executed the certificate, or caused another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any material respect, within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate or to file a petition for its cancellation or amendment pursuant to Section 12 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The fact that a certificate of limited partnership is on file with the secretary of state shall constitute notice and that the partnership is a limited partnership and the persons designated therein as general partners are general partners, but shall not constitute notice of any other fact.

SECTION 16. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Upon the return by the secretary of state pursuant to Section 13 of this Act of a certificate marked "filed," the general partners shall deliver or mail a copy of the certificate of limited partnership and each certificate of amendment or certificate of cancellation to each limited partner unless the partnership agreement provides otherwise.

SECTION 17. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A person shall become a limited partner on the later of:

(a) The date the original certificate of limited partnership is filed; or

(b) At any later date specified in the records of the limited partnership as the date that person will become a limited partner.

(2) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(a) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in Section 42 of this Act, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

SECTION 18. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners.

SECTION 19. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as approved by the specific written consent of all partners at the time, a person shall cease to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in Section 32 of this Act;

(2) The general partner ceases to be a member of the limited partnershp as provided in Section 40 of this Act;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudged a bankrupt or insolvent or has entered against him an order for any relief in any bankruptcy or insolvency proceeding;

(d) Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition

filed against him in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties.

(5) Unless otherwise provided in writing in the partnership agreement, one hundred twenty (120) days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, if the proceeding has not been dismissed, or if within ninety (90) days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties, the appointment has not been vacated or stayed, or ninety (90) days after the expiration of any such stay, the appointment has not been vacated.

(6) In the case of a general partner who is a natural person, his death or the entry of an order by a court of competent jurisdiction adjudicating him incompetent to manage his person or his property.

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, upon the termination of the trust, but not merely the substitution of a new trustee.

(8) In the case of a general partner that is a separate partnership, upon the dissolution and commencement of winding up of the separate partnership.

(9) In the case of a general partner that is a corporation, upon the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its certificate of incorporation or its equivalent; or

(10) In the case of a general partner that is an estate, upon the distribution by the fiduciary of the entire interest of the estate in the partnership.

SECTION 20. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership shall have all of the rights and powers, and is subject to all of the restrictions, of a partner in a partnership without limited partners.

(2) Except as provided in this Act, a general partner of a limited partnership shall have all of the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership shall have all of the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

SECTION 21. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to the limited partnership, and share in the profits and losses of, and distributions from, the limited partnership, as a limited partner. A person who is both a general partner and a limited partner shall have all of the rights and powers, and shall be subject to all of the restrictions and liabilities, of a general partner and except as provided in the partnership agreement, also shall have all of the powers, and shall be subject to all of the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

SECTION 22. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The partnership agreement may grant to all, or certain identified general partners or a specified class or group of the general partners, the right to vote on a per capita or any other basis, separately or with all or any class or group of the limited partners or the general partners, on any matter and may make appropriate provision for the exercise of such voting rights.

SECTION 23. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Subject to Section 24 of this Act, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, with or without the concurrence of the general partners, on a per capita or any other basis on any matter and may make any appropriate provision for the exercise of such voting right.

SECTION 24. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (4) of this section, a limited partner shall not be liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the business. However, if the limited partner participates in the control of the business, he shall be liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner shall not participate in the control of the business within the meaning of subsection (1) solely by doing one (1) or more of the following things:

(a) Being a contractor for, or an agent or employe of, the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation;

(b) Consulting with or advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety, guarantor or endorser for the limited partnership, guaranteeing or assuming one (1) or more specific obligations of the limited partnership or providing collateral for the limited partnership;

(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting, attending or participating in a meeting of partners;

(f) Proposing,approving, or disapproving, by voting or otherwise, one (1) or more of the following matters:

1. The dissolution and winding up of the limited partnership;

2. The sale, exchange, lease, mortgage, assignment, pledge, or other transfer of or granting of a security interest in, all, or substantially all, of the assets of the limited partnership;

3. The incurrence, renewal, refinancing, payment or other discharge of indebtedness by the limited partnership other than in the ordinary course of its business;

4. A change in the nature of the business;

5. The admission or removal of a general partner;

6. The admission or removal of a limited partner;

7. A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;

8. An amendment to the partnership agreement or certificate of limited partnership; and

9. A matter related to the business of the limited partnership not otherwise enumerated in this subsection which the partnership agreement states in writing is subject to the approval or disapproval of limited partners;

(h) Winding up the limited partnership pursuant to Section 41 of this Act; or

(i) Exercising any right or power permitted to limited partners under this Act and not specifically enumerated in this subsection.

(3) The enumeration in subsection (2) of this section shall not mean that the possession or exercise by a limited partner of any power other than a power enumerated in that subsection constitutes participation by him in the business of the limited partnership.

(4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under a circumstance permitted by subsection (2) of Section 2 of this Act, shall be liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

SECTION 25. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise shall not be a general partner in the enterprise and shall not be bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake he:

(a) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise by executing and filing with the secretary of state a certificate declaring withdrawal under this section.

(2) A person who make a contribution of the kind described in subsection (1) of this section shall be liable as a general partner to any third party who transacts business with the enterprise before the person withdraws and an appropriate certificate is filed to show withdrawal or before an appropriate certificate is filed to show that the person is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

SECTION 26. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Each limited partner may:

(1) Inspect and copy any of the partnership records required to be maintained by Section 5 of this Act; and

(2) Obtain from the general partners from time to time, upon reasonable demand, and subject to such reasonable standards as may be set forth in the partnership agreement or otherwise established by the general partners and for any purpose reasonably related to the limited partner's interest as a limited partner:

(a) True and full information regarding the state of the business and financial condition of the limited partnership;

(b) Promptly after becoming available, copies of the limited partnership's federal, state, and local income tax returns for each year; and

(c) Such other information regarding the affairs of the limited partnership as is just and reasonable.

SECTION 27. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

SECTION 28. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A promise by a limited partner to contribute to the limited partnership shall not be enforceable unless it is set out in a writing signed by the limited partner.

(2) Except as provided in the partnership agreement, a partner shall be obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even if he is unable to perform because of his death or disability or any other reason. If a partner does not make the required contribution of property or services, he shall be obligated, at the option of the limited partnership, to contribute cash equal to that portion of the value, as stated in the partnership records required to be kept pursuant to Section 5 of this Act, of the stated contribution that has not been made.

(3) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this Act may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit or otherwise acts in reliance on that obligation after the partner has signed a writing which reflects the obligation, and before the amendment or cancellation of the writing to reflect the compromise may enforce the original obligation.

SECTION 29. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, profits and losses shall be allocated on the basis of the value, as stated in the partnership records required to be kept pursuant to Section 5 of this Act, the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

SECTION 30. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value, as stated in the partnership records required to be kept pursuant to Section 5 of this Act, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

SECTION 31. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 37 of this Act, a partner shall be entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.

SECTION 32. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners; but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner, in addition to any other remedies available to it, damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

SECTION 33. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A limited partner may withdraw from a limited partnership at the time or upon the happening of an event specified in writing in the partnership agreement. If the partnership agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw, or set forth a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six (6) months' prior written notice to each general partner at his address as set forth in the certificate of limited partnership.

SECTION 34. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 37 of this Act, upon withdrawal, a withdrawing partner shall receive any distribution to which he is entitled in writing under the partnership agreement. If not otherwise provided in writing in the partnership agreement, he shall receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.

SECTION 35. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as provided in writing in the partnership agreement:

(1) A partner, regardless of the nature of his contribution, shall not demand or receive any distribution from a limited partnership in any form other than cash.

(2) A partner shall not be compelled to accept a distribution of any asset in kind from a limited partnership to the extend that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

SECTION 36. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

At the time a partner becomes entitled to receive a distribution, he shall have the status of, and be entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

SECTION 37. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A partner shall not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

SECTION 38. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) (a) If a partner receives the return of any part of his contribution without violation of the partnership agreement or this Act, he shall be liable to the limited partnership for a period of one (1) year thereafter for the amount of the returned contribution, without interest, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the limited partnership.

(b) If a partner receives the return of any part of his contribution in violation of the partnership agreement or this Act, he shall be liable to the limited partnership for a period of six (6) years thereafter for the amount of the contribution without interest, wrongfully returned.

(2) A partner shall receive a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value, as set forth in the partnership records required to be kept pursuant to Section 5 of this Act, of his contribution which has not been distributed to him.

SECTION 39. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A partnership interest shall be personal property.

SECTION 40. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in the partnership agreement:

(1) A partnership interest shall be assignable in whole or in part;

(2) An assignment of a partnership interest shall not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner;

(3) An assignment shall entitle the assignee to receive such distributions, and to receive such allocation of income, gain, loss, deduction or credit or similar item, to which the assignor was entitled, to the extent assigned; and

(4) A partner shall cease to be a partner upon the assignment of all of his partnership interests.

SECTION 41. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the partnership interest. This Act shall not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

SECTION 42. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that:

(a) The assignor gives the assignee that right in accordance with the provisions of the partnership agreement; or

(b) All other partners consent.

(2) An assignee who has become a limited partner shall have, to the extent assigned, the rights and powers, and shall be subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this Act. An assignee who becomes a limited partner also shall be liable for the obligations of his assignor to make and return contributions as provided in Sections 27 and 38 of this Act. However, the assignee shall not be obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the partnership agreement.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor shall not be released from his liability to the limited partnership under Sections 14 and 27 of this Act.

SECTION 43. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

If a partner who is an individual dies, or a court of competent jurisdiction adjudges a partner who is an individual to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, partnership, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

SECTION 44. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A limited partnership shall be dissolved, and its affairs shall be wound up, upon the happening of the first to occur of the following events:

(1) At the time specified in the certificate of limited partnership;

(2) An event specified in writing in the partnership agreement;

(3) The written consent of all partners;

(4) An event of withdrawal of a general partner unless at the time there is at least one (1) other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner and that partner does so; but the limited partnership shall not be dissolved and shall not be required to be wound up by reason of any event of withdrawal if, within ninety (90) days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one (1) or more additional general partners if necessary or desired; or

(5) The entry of a decree of judicial dissolution under Section 45 of this Act.

SECTION 45. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

On application by or for a partner, the circuit court for the county in which the certificate of limited partnership is recorded may order dissolution of a limited partnership if it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

SECTION 46. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs; but the circuit court for the county in which the certificate of limited partnership is recorded, upon cause shown, may wind up the limited partnership affairs upon application of any partner, his legal representative or assignee.

SECTION 47. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership, other than liabilities for distributions to partners under this Act;

(2) Except as otherwise provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under this Act; and

(3) Except as otherwise provided in the partnership agreement, to partners first for the return of their contributions and secondly, respecting their partnership interests, in the proportions in which the partners share in distributions.

SECTION 48. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Subject to the Constitution of this state the laws of the state under which a foreign limited partnership is organized shall govern its organization and internal affairs and the liability of its limited partners; and a foreign limited partnership shall not be denied registration by reason of any difference between those laws and the laws of this state.

SECTION 49. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

SECTION 50. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

In a derivative action, the plaintiff shall be a partner at the time of bringing the action and either:

(1) At the time of the transaction of which he complains; or

(2) His status as a partner shall have devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

SECTION 51. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

SECTION 52. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a *result of a judgment, compromise, or settlement of any action or claim, the court may award the plainiff reasonable expenses, including reasonable attorney's fees. If anything is so received by the plaintiff, the court shall make the award of plaintiff's expenses payable out of those proceeds and shall direct plaintiff to remit to the limited partnership the remainder. If those proceeds are insufficient to reimburse the plaintiff's reasonable expenses, the court may direct that any award of plaintiff's expenses, or a portion thereof, be paid by the limited partnership.*

SECTION 53. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed to by a general partner and setting forth:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state:

(b) The state and date of its formation;

(c) The name and address of any agent for service of process on the foreign limited partnership. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(d) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process. If the appointed agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

(e) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(f) The name and the business address of each general partner; and

(g) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

(2) The execution by a general partner of an application for registration as a foreign limited partnership, the execution of a certificate amending the application pursuant to Section 56 of this Act and the execution of a certificate of cancellation pursuant to Section 57 of this Act shall constitute an affirmation under the penalties of perjury that the facts stated there are true.

SECTION 54. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) If the secretary of state finds that an application for registration conforms to law and the filing fee provided for in subsection (3) of this section has been paid, the secretary of state shall:

(a) Endorse on the application the word "Filed" and the day, month, and year of the filing thereof;

(b) File in its office a duplicate original copy of the application; and

(c) Issue a certificate of registration to transact business in this state.

(2) The certificate of registration, together with a duplicate original of the application similarly endorsed, shall be returned to the person who filed the application or his representative.

(3) The secretary of state shall receive a fee of sixty dollars ($60) for recording the application for registration and shall receive the same recording fee for an amendment thereto or cancellation thereof.

SECTION 55. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A foreign limited partnership may register with the secretary of state under any name whether or not it is the name under which it is registered in its state of organization, that includes the words "Limited" or its abbreviation "Ltd.", and that could be registered by a domestic limited partnership.

SECTION 56. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

If any statement in the application for registration of a foreign limited partnership was false when made, or any arrangements or other facts described in the application have changed making the application false in any respect, the foreign limited partnership shall file with the secretary of state a certificate, signed by a general partner, correcting the statement.

SECTION 57. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed by a general partner. A cancellation shall not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this state.

(2) The failure of a foreign limited partnership to register in this state shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3) A limited partner of a foreign limited partnership shall not be liable as a general partner of the foreign limited partnership solely by reason of the partnership's having transacted business in this state without registration.

(4) A foreign limited partnership, by transacting business in this state without registration, shall appoint the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

SECTION 58. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The attorney general may bring an action to enjoin a foreign limited partnership from transacting business in this state in violation of Section 53 of this Act.

SECTION 59. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

SECTION 60. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A limited partnership formed under any statute of this state prior to the adoption of this Act, until or unless it becomes a limited partnership under this Act, shall continue to be governed by the provisions of the statute under which it was formed.

(2) A limited partnership formed under any statute of this state prior to the adoption of this Act may elect to become subject to this Act upon the filing of an amended and restated certificate of limited partnership which complies with the provisions of Section 8 of this Act.

(3) Upon the occurrence of any event which would require the filing of a certificate of amendment by a limited partnership under this Act or under the statute under which the limited partnership was formed, the limited partnership shall file an amended and restated certificate of limited partnership which complies with the provisions of Section 8 of this Act.

SECTION 61. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

In any case not provided for in this Act, the provisions of the Uniform Partnership Act and the rules of *law and equity shall govern.*

SECTION 62. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The repeal of any statutory provision by this Act shall not impair, or otherwise affect, the organization or the continued existence of a limited partnexisting on the effective date of this Act, nor does the repeal impair any contract or affect any right accrued before the effective date of this Act.

SECTION 63. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Revised Uniform Limited Partnership Act."

Section 64. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; the real name of a domestic limited partnership is that name given to it in its agreement of limited partnership and stated in its certificate of limited partnership filed pursuant to KRS *Chapter 362* [~~362.420(1)(a)~~]; the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271A.530.

(2) (a) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name or any foreign limited partnership name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate or partnership name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate or partnership name;

(e) The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the secretary of state shall receive a fee of twenty dollars ($20) for filing each certificate.

Section 65. The following KRS sections are repealed:

362.410 Limited partnership defined.

362.420 Formation — Filing fee.

362.430 Business which may be carried on.

362.440 Character of limited partner's contribution.

362.450 A name not to contain surname of limited partner — Exceptions.

362.460 Liability for false statements in certificate.

362.470 Limited partner not liable to creditors unless he takes part in control of business — Acts that do not constitute control of business.

362.480 Admission of additional limited partners.

362.490 Rights, powers and liabilities of a general partner.

362.500 Rights of a limited partner.

362.510 Status of person erroneously believing himself a limited partner.

362.520 One person both general and limited partner.

362.530 Loans and other business transactions with limited partner.

362.540 Relation of limited partners among themselves.

362.550 Compensation of limited partner.

362.560 Withdrawal or reduction of limited partner's contribution.

362.570 Liability of limited partner to partnership.

362.580 Nature of limited partner's interest in partnership.

362.590 Assignment of limited partner's interest.

362.600 Effect of retirement, death or insanity of a general partner.

362.610 Death of limited partner.

362.620 Rights of creditors of limited partner.

362.630 Distribution of assets.

362.640 When certificate shall be cancelled or amended.

362.650 Requirements for amendment and for cancellation of certificate — Filing fee.

362.660 Parties to actions.

362.670 Name of act.

362.680 Rules of construction.

362.690 Rules for cases not provided for in KRS 362.410 to 362.700.

362.700 Provisions for existing limited partnerships.

362.710 Application of KRS 362.420, 362.650 and 365.015.

HCR 30, A CONCURRENT RESOLUTION establishing the Family Court Feasibility Task Force.

WHEREAS, the Kentucky General Assembly considers the American family to be the framework upon which a prosperous and healthy society is built and maintained in this nation and Commonwealth; and

WHEREAS, the various courts of the Commonwealth are routinely required to make judicial determinations which drastically affect the character and viability of particular Kentucky families; and

WHEREAS, the subjects of such judicial determinations include, but are not limited to, matters concerning dissolution of marriage, spousal maintenance, child support, adoption, termination of parental rights, establishment of paternity, domestic violence, and juvenile offenses; and

WHEREAS, the jurisdictions of the various courts of the Commonwealth can and do overlap concerning matters of dispute or crisis within particular families, thereby causing fractionalization and disruption in judicial decision-making continuity; and

WHEREAS, the establishment of a court or division of court particularly devoted to and specializing in family law might promote such continuity of judicial decision-making as well as foster development of expertise in the management and disposal of family law cases by the Kentucky judiciary;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to appoint a task force, the purpose of which shall be to examine, during the 1988-89 interim period, the need for and feasibility of establishing a family court or division of court exclusively devoted to the determination of matters including but not limited to dissolution of marriage, spousal maintenance, child custody and support, adoption, termination of parental rights, establishment of paternity, domestic violence, juvenile dependency and crime.

Section 2. That the task force so appointed shall consist of thirteen (13) members including one (1) circuit court judge, one (1) district court judge, one (1) commonwealth's attorney, one (1) county attorney, one (1) certified social worker licensed in Kentucky for the independent practice of clinical social work, one (1) psychologist licensed in Kentucky at the doctoral level, one (1) psychiatrist licensed in Kentucky to practice medicine or osteopathy who is certified by the American Board of Psychiatry and Neurology, Inc., three (3) members of the Kentucky General Assembly, the director of the administrative office of the courts, one (1) representative of associations, groups or entities dedicated to advocacy of the rights and interests of children, and one (1) member of the Kentucky Bar Association not a member of any other category set out herein.

Section 3. That the findings and conclusions of the task force, including summaries of any legislation which it may recommend or prefile, shall be reported to the Legislative Research Commission on or before September 1, 1989.

Section 4. That staff services to be utilized in support of the task force are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee Amendment No. 1 to **HCR 30** is as follows:

Amend printed copy of **HCR 30** on page 2, line 12, delete "thirteen (13)" and insert in lieu thereof "sixteen (16)"; and

On page 2, lines 15-16, delete "for the independent practice of clinical social work" and insert in lieu thereof the following: ", one (1) certified social worker licensed in Kentucky and employed by the Cabinet for Human Resources"; and

On page 3, line 1, delete "three (3)" and insert in lieu thereof "five (5)".

SB 4, AN ACT relating to surrogate parenting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.590 is amended to read as follows:

(1) No person, corporation or association shall advertise in any manner that it will receive children for the purpose of adoption nor shall any newspaper published in the Commonwealth of Kentucky nor any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) No person, agency, institution, or intermediary may sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. Nothing in this section shall prohibit a licensed child-placing agency from charging a fee for adoption services. Nothing in this section shall be construed to prohibit in vitro fertilization. For purposes of this section "in vitro fertilization" means the process whereby an egg is removed from a woman, then fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) *No person, agency, institution, or intermediary shall be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artifical insemination. No person, agency, institution or intermediary shall receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.*

(4) In any adoption for which approval of the secretary is required under KRS 199.470(4), the total amount of money paid, including attorney's fees, by adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification.

The Committee on Transportation reported **HB 283** with Committee Substitute attached thereto, **HB 357**, **HB 360** with Committee Amendment attached thereto, and **HB 687** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 283, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.180 is amended to read as follows:

(1) [~~(a)~~] If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by filing an affidavit, upon a form furnished by the cabinet, and he shall pay to the clerk a fee of two dollars ($2.00).

[~~(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk~~

~~who issued such receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk before a duplicate may be issued therefor. The owner shall pay the clerk a fee of two dollars ($2.00).~~

~~(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt, must be omitted from the duplicate receipt to be issued by the clerk.~~]

(2) If the owner loses a registration plate he shall surrender his registration receipt to the county clerk from whom it was obtained and file therewith a written statement as to the loss of the plate. Upon the payment of the sum of two dollars ($2.00) for each plate and a fee of two dollars ($2.00) to the clerk for his services *and payment of all ad valorem taxes due under KRS 138.810,* the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and shall make a notation on the triplicate copy of the surrendered registration receipt, stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the director of the bureau of state police. Any person finding a lost registration plate shall deliver it to the transportation cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. The clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the transportation cabinet. The fee for such registration shall be four dollars ($4.00) of which the clerk shall be entitled to two dollars ($2.00) and the cabinet shall be entitled to two dollars ($2.00).

Section 2. KRS 186.190 is amended to read as follows:

(1) *(a) Effective January 1, 1989, the registration plates upon all motor vehicles registered pursuant to KRS 186.050(1) and (3)(a) shall remain with the owner of said plate and be placed upon a motor vehicle titled to that owner as provided herein. In the event, for any reason, the registration plate referred to herein is not placed upon a vehicle titled to the owner within a period of fifteen (15) days, the registration plate shall be returned to the clerk of the county in which the registration plate was issued or the owner thereof resides.*

(b) Where the owner of the registration plate is the lessor of the motor vehicle upon which that registration plate is placed, the ad valorem taxes due upon the motor vehicle the registration plate was on as of January 1 of each calendar year shall be paid to and collected by the county clerk of the county in which the owner of the registration plate resides.

(2) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain *with the owner obtaining such registration. All special and personalized plates authorized by this chapter to the contrary notwithstanding shall remain with the owner thereof and placed upon the motor vehicle owned or leased by the owner* [~~upon such motor vehicle as a part of it until the expiration of the registration year~~].

(3)[~~(2)~~] No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current *title* [~~registration receipt~~] issued on the motor vehicle [~~and the bill of sale. Any unexpired registration shall remain valid upon transfer of said vehicle to the new owner~~].

(4)[~~(3)~~] Upon delivery of the *title* [~~registration receipt~~] and the *vehicle transaction record* [~~bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall *upon request* [~~thereupon~~] issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address, *and the purchaser's registration plate number.* The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

[~~(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy~~

~~of the transfer of registration to the clerk of the county of original registration.~~]

(5) *Within fifteen (15) days after* [~~If~~] the owner junks or otherwise renders a motor vehicle unfit for future use *or fails to purchase another motor vehicle,* he shall deliver the registration plate and registration receipt *and shall pay any property taxes due and not yet paid* to the county clerk of the county in which the motor vehicle *was last registered* [~~is junked~~]. The county clerk shall immediately return the plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty cents (50) for his services.

(6) *It shall be the responsibility of the dealer, upon transfer of a current license plate from a vehicle traded to him onto a vehicle sold by him to deliver to the county clerk all required documents necessary to complete the transfer pursuant to KRS Chapter 186A.*

(7) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(8)[~~(7)~~] The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

Section 3. KRS 186.193 is amended to read as follows:

The county clerk shall not transfer the *title* [~~registration~~] on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

Section 4. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent (5%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand (10,000) pounds the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered *or titled:*

(a) When he collects the registration *or title* fee for registering *or titling* [~~and licensing~~] a motor vehicle the first time it is offered for registration *or titling* in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered *or titled* in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the revenue cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, or transfer the ownership of any motor vehicle previously registered *or titled* in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, *title* and license fees.

(5) When a resident of this state offers a motor vehicle for *either* registration *or title* for the first time in this state which was registered *or titled* in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat

copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and *certificate of title* [~~ownership~~] mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4), in no case shall the tax be less than five dollars ($5) upon first registration [~~of~~] or *titling* any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the revenue cabinet as a result of the registration *or titling* of the returned vehicle. In the case of a new motor vehicle, the registration *or titling* of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered *or titled* in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the first registration *or titling*. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the registration. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 5. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not [~~previously~~] been registered in this state, shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for fifteen (15) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the transportation cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

SECTION 6. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

The finance and administration cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of this Act and, further, shall reimburse each state agency involved for all on-going operational costs incurred by each such agency in administering the provisions of this Act.

Section 7. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government *or motor vehicles which are titled under KRS 186A.070* when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle; and

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

Section 8. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(2), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, [~~186.180,~~] 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, *186.180,* 186.190, or 186.200 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS

186.400 to 186.640 shall be fined not less than twelve dollars ($12) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

The Committee Substitute to **HB 283** is as follows:

HB 283, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.462 is amended to read as follows:

As used in KRS 138.463 and 138.4631, unless the context requires otherwise:

(1) "Cabinet" means the transportation cabinet;

(2) "Rent" and "rental" means a contract, supported by a consideration, for the use of a motor vehicle for a period of less than three hundred sixty-five (365) days;

(3) "Lease" and "leasing" means a contract, supported by a consideration, for the use of a motor vehicle for a period of three hundred sixty-five (365) days or more[~~; and~~

~~(4) "Gross rental charge" means the amount paid by a customer for time and mileage only~~].

Section 2. KRS 138.463 is amended to read as follows:

(1) A holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or, subject to the provisions of this section, may pay a usage tax of *five* [~~eight~~] percent *(5%)* [~~(8%)~~] levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the permit.

(2) *The provisions of KRS 138.462 and this section shall apply to all rental and leasehold contracts in existence on the effective date of this Act, as well as all rental and leasehold contracts entered into after July 15, 1988.*

(3) A holder of a permit shall pay the usage tax as provided in KRS 138.460 unless he shows to the satisfaction of the cabinet that he is regularly engaged in the renting or leasing of motor vehicles to retail customers as a part of an established business. Persons first engaging in the renting or leasing of motor vehicles to retail customers shall, in addition to obtaining a permit required under KRS 281.615, demonstrate to the satisfaction of the cabinet that they are prepared to qualify under the standards set forth in this subsection.

(4)[~~(3)~~] In the event the holder of such permit qualifies under subsection (2) of this section and elects to pay the usage tax by the alternate method as provided in subsection (1) of this section, or is required by subsection (7) of this section to pay by the alternate method, he shall pay the seat tax imposed by KRS 186.281(3) and in addition shall pay the monthly tax authorized by subsection (1) of this section. The cabinet shall provide the holder with evidence that he has been qualified to pay the monthly tax. The holder shall present such evidence to the county clerk at the time the motor vehicle is offered for registration in Kentucky and the following provisions shall be applicable.

(5)[~~(4)~~] The tax authorized by subsection (1) of this section shall be the direct obligation of the holder of the permit but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the cabinet each month on forms and pursuant to regulations promulgated by the cabinet.

(6)[~~(5)~~] (a) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

(b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

(7)([~~6)~~] Failure of the holder of the permit to remit the taxes applicable to the rental charges as provided herein shall be sufficient cause for the department of vehicle regulation to void the permit issued to such holder and the usage tax on each of the motor vehicles which had been registered by the holder under the permit shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

(8)[~~(7)~~] Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a holder of a permit operating a fleet of rental passenger cars which has been registered pursuant to an allocation formula approved by the cabinet shall pay the tax by the method provided in this section. The provisions of this section shall apply to all vehicles rented by the holder in this state.

(9)[~~(8)~~] Every rental of a vehicle registered pursuant to this section shall represent a bona fide arm's-length transaction and the consideration for such rental shall be based on the fair rental value of the vehicle. The burden of proving that the consideration charged by the holder satisfies this subsection is on the holder.

Section 3. KRS 154.690 is amended to read as follows:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, shall be exempt from the motor vehicle usage tax. *This exemption shall apply only to qualified businesses within the zone prior to the effective date of this Act.*

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of KRS 154.660 to 154.705, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

Section 4. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state which has not previously been registered in this state, shall; unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for *thirty (30)* [~~fifteen (15)~~] days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2.00), of which the clerk shall retain one dollar ($1.00). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the transportation cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or, if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application; and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

Section 5. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school and special taxing district ad valorem taxes shall be due and payable on or before the *earlier of the* last day of the month in which registration *renewal* is required by law, for *a* [~~all~~] motor *vehicle* [~~vehicles~~] renewed *of the last day of the month in which a vehicle is transferred.*

(2) All state, county, city, urban-county government, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following *earlier of the* the end of the month in which registration *renewal* is required by law *or the last day of the second calendar month following the month in which a vehicle was transferred.*

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency; provided, however, that no penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220. [~~The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, city, urban-county government, school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.~~]

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the *owner of record on January 1 of any year shall be* [~~purchaser shall become~~] liable for the taxes on said motor vehicle *except as hereinafter provided.*

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) All motor vehicles currently titled and registered in this state held on an assignment by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(11) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. No lien for delinquent ad valorem taxes shall attach to any motor vehicle transferred while the taxes are due on that vehicle.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS data base. For the filing and release of each such lien or set of liens arising from motor vehicle ad valorem property tax delinquency a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 6. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the revenue cabinet for collecting state ad valorem taxes on motor vehicles a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) *(a) For the convenience and benefit of the commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner of record of each motor vehicle no later than one month prior to the ad valorem tax and registration renewal due date in each calendar year.*

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner of record as of January 1 of that year.

(c) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Non-receipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

[~~For filing a lien for delinquent taxes on motor vehicles, the county clerk shall be allowed a fee of six dollars ($6) to be added to the amount of taxes, penalty and interest due and collected upon payment by the taxpayer of the delinquent tax claim.~~

~~(6) County clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due on each motor vehicle no later than one (1) month prior to the due date. These notices shall be prepared and mailed by the revenue cabinet for county clerks, and actual costs of preparation and mailing shall be paid by the county clerks to the revenue cabinet.~~]

SECTION 7. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet shall cancel the registration and title of any motor vehicle registered or titled in Kentucky within thirty (30) days following receipt of notification from another jurisdiction that the Kentucky title issued for such motor vehicle has been surrendered.

Section 8. KRS 186.021 is amended to read as follows:

(1) No county clerk shall issue *a replacement plate as provided in KRS 186.180 or* a registration for renewal *to any persons who on January 1 of any year owned a* [~~for any~~] motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are due and have not been paid.

(2) No county clerk shall issue *a replacement plate as provided in KRS 186.180 or* a registration renewal for any motor vehicle which is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in regulations issued by the department of insurance.

Section 9. KRS 186A.145 is amended to read as follows:

(1) Upon receiving an application of an owner for a first certificate of registration or title in his name, the county clerk or deputy clerk shall review the form, and each copy thereof, for legibility, completeness, and consistency of information. The clerk shall ensure that all documents required in support of the application accompany the application and that they are consistent in pertinent part with the statements upon the application.

(2) Upon determining that an application is in proper form, the county clerk or his deputy shall complete those elements of the form reserved to the county clerk, endorse the application in the manner directed upon the form, and then enter designated information from the application into the automated system, in the manner required by administrative regulations of the department of vehicle regulation consistent with this chapter.

(3) No county clerk shall process an application for Kentucky title and registration from or to any Kentucky resident who has a delinquent motor vehicle ad valorem property tax account. This provision shall not apply to transactions involving licensed Kentucky motor vehicle dealers.

Section 10. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents (30) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the revenue cabinet for the recapitulation

sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the county levy and the other one-half (1/2) out of the state treasury. The county clerk shall certify the allowance to the finance and administration cabinet, which shall draw a warrant on the state treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above *county* allowance shall likewise be paid to the county clerk for calculation of the state, county, city, urban-county government, school and special district tax for each individual motor vehicle taxpayer, based upon certification from the revenue cabinet of the number of accounts as of January 1 each year. [~~The cabinet shall recover from the county clerk those costs incurred by the cabinet directly associated with the calculation of said taxes in the centralized ad valorem tax system for motor vehicles.~~]

Section 11. KRS 186.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the department of vehicle regulation, in cooperation with the department of revenue, shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the department of revenue, and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with *an owner of* a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 12. The finance and administration cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of this Act and, further, shall reimburse each state agency involved for all on-going operational costs, *including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles,* incurred by each such agency in administering the provisions of this Act.

Section 13. Sections 5 through 9 of this Act shall become effective on December 31, 1988. However, if the Secretary of Transportation determines that the AVIS data base cannot be modified in sufficient time to efficiently implement the automated lien procedures provided for in this ACT by December 31, 1988, he shall report such determination in writing to the Governor not later than November 1, 1988. The Governor may then by executive order extend the effective date of these sections of this Act to July 1, 1989. Such order shall be made prior to December 1, 1988. The Secretary of Transportation shall, upon issuance of such an order by the Governor, notify all appropriate agencies that such extension has been made.

Section 14. In order to ensure that the collection system created by this Act will be operable on January 1, 1989, an EMERGENCY is declared to exist, and the provisions of sections 11 and 12 shall be effective immediately.

HB 357, AN ACT relating to motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds,

vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the revenue cabinet, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of such registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of such vehicle shall be the same as the retail price determined in subsection (b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection (d) of this section shall not apply.

(5) "Wrecked motor vehicle" means any motor vehicle damaged *prior to purchase* by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates *or minus the total repair costs assessed to the owner prior to registration of the vehicle* submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles *or obtain repair or parts invoices or cancelled checks which result from repair of said vehicle* and submit them to the county clerk.

HB 360, AN ACT relating to motor vehicle operators' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) *Murder or* manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) *The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) nor more than fifteen (15) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.*

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such

terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(6)[~~(5)~~] Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The cabinet shall permit driver's education programs approved by the cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(7)[~~(6)~~] License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(8)[~~(7)~~] In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

(9)[~~(8)~~] Any person or legal entity that seeks to offer, conduct or operate a driver's education program as provided in this section shall submit sufficient documentation to the cabinet in writing that such program is needed in the geographical area that is proposed to be served. The cabinet shall promulgate administrative regulations which specify what constitutes need for such programs in a given geographical area. The cabinet shall determine whether such need is shown to exist and shall establish by regulation an appeals procedure. The provisions of this subsection shall not apply to any driver's education program operating with the approval of the cabinet prior to July 15, 1986.

The Committee Amendment No. 1 to **HB 360** is as follows:

Amend printed copy of **HB 360** on page 3, line 3, by deleting "*nor more than fifteen (15)*"

HB 687, AN ACT relating to overdimensional permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting microwave satellite television antennae or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay a fee of thirty dollars ($30) for each overweight or overdimension permit; a fee of twenty dollars ($20) for each single trip house trailer permit; a fee of eighty dollars ($80) for each annual house trailer, farm equipment or microwave antennae transporter permit; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) *Any motor carrier transporting manufactured steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will*

be made weekly. The cost of the annual permit shall be eighty dollars ($80).

(3) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

The Committee Amendment No. 1 to **HB 687** is as follows:

Amend printed copy of **HB 687** on page 2, line 9, after the word "*transporting*" by deleting the word "*manufactured*" and inserting "*equipment used to mold*" in lieu thereof; and

On page 2, line 20 after the word "*be*" by deleting "*eighty dollars ($80)*" and inserting "*five hundred dollars ($500)*" in lieu thereof.

Motions, Petitions and Communications

Representative Geveden moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Geveden moved the adoption of Legislative Citation No. 68. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Paul Daniel Knowles an outstanding student and leader. Your accomplishments of scholarship, leadership and service have paved the way to the honor of your serving as National Beta President for 1987-88. This prestigious body commends you for your 4.6 GPA and your standing in the top ten percent of your class. You have demonstrated leadership qualities by your participation in the Hugh O'Brien Youth Foundation and the National 4-H Congress. Your community activities and the numerous honors and awards you have received are most noteworthy.

The House of Representatives joins Representative Charles Geveden in saluting you for your contributions to your school, your community and the Commonwealth of Kentucky and wishes you every success in your future endeavors. (Sponsored by Representative Geveden)

Representative Stumbo moved that the rules be suspended to act upon a Resolution.

Representative Stumbo moved the adoption of the following **HR 107**:

HR 107. A RESOLUTION directing appointment of a committee to wait upon the Chief Justice.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this body to join a like committee of the Senate to wait upon the Chief Justice of the Supreme Court of Kentucky and invite him to address a joint session of the General Assembly on Wednesday, February 24, 1988.

HR 107 was adopted by voice vote.

Pursuant to **HR 107**, the Speaker appointed the following committee to wait upon the Chief Justice of the Supreme Court: Representative Johnson, Chairman, Representatives Barrows, A. Jones, Overstreet and Priddy.

Representative Stumbo moved that **HB 652** be recommitted to the Committee on Banking and Insurance for the purpose of holding a hearing. Agreed.

Representative Bruce, Chairman of the Committee on Banking and Insurance, named the following members to serve on the Subcommittee: Representative B. Smith, Chairman; Representative Guenthner, Vice-Chairman; Representatives Ackerson, Lundergan, Morris and Ark.

Representative Bruce announced the hearing on **HB 652** will be held Thursday, February 25, 1988, 8:00

a.m. - 10:00 a.m., Willis Room.

Representative Gray moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **HB 463**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 345**, by Representative Kerr:

Amend printed copy of HCS to **HB 345** on page 1, line 15, by deleting "*including*" and inserting "*emphasizing*" in lieu thereof.

Floor Amendment No. 1 to **HB 462**, by Representative Strong:

Amend printed copy of **HB 462** on page 4, after line 23, by inserting: "*(b) Persons holding licenses as agents or solicitors for life, health, property, or casualty insurance on the effective date of this Act;*"; and

On page 4, line 24, by deleting "*(b)*" and inserting "*(c)*"; and

On page 4, line 26, by deleting "*(c)*" and inserting "*(d)*".

Floor Amendment No. 7 to the Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of HCS on **HB 496** on page 4, line 24, by deleting the word "*such*" and by inserting after the word "*sheriffs*" the words "*in counties containing a city of the first class*"; and

on page 4, line 26, by adding after the word "*thereof*" the words "*and the maximum annual salary for sheriffs in urban counties shall be fixed by joint order of the mayor and the chief judge of the circuit court,*"; and

On page 5, line 3, by bracketing and striking through all of line 3; and

On page 5, line 7, by inserting after the word "thereof." the words "*In urban counties, the amount, if any, allowed for the necessary office expenses of the county clerk shall be fixed by an order entered upon the order book of the circuit court and signed by the chief judge thereof, but the necessary office expenses of the sheriff shall be fixed for the sheriff by joint order of the mayor and the chief judge of the circuit court.*"; and

On page 6, line 21, by placing an opening bracket before the word "and" and on page 6, line 22, by placing a closing bracket after the word "government" and by striking through the bracketed language on lines 21 and 22; and

On page 7, line 1, by inserting after "thereof." the words "*In urban counties, the number of deputies and assistants allowed to the county clerk and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon the motion of the clerk by an order entered upon the order book of the circuit court and signed by the chief judge thereof, but the number of sheriff's deputies and assistants, and the compensation of each, shall be fixed at reasonable amounts, upon the motion of the sheriff, by joint order of the mayor and the chief judge of the circuit court.*".

Floor Amendment No. 1 to **HB 560**, by Representative Donnermeyer:

Amend printed copy of **HB 560** on page 1, line 10, after the word "*have*" by inserting "*sixteen (16)*" and deleting "*fifteen (15)*" and

On line 18, after "*designee,*" by inserting "*the secretary of the labor cabinet or his designee,*".

Floor Amendment No. 2 to **HCR 69**, by Representative Reinhardt:

Amend printed copy of **HCR 69** on page 2, line 23, after the words "House district" to delete the word "and" and insert a comma, and

On page 2, line 24, after the word district, to insert the following: ", and the seventy-fourth House district".

The Clerk announced the following meeting:

Majority Caucus, February 25, 1988, Room 109, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 24, 1988.

On the roll call the vote was yeas 88-Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 3-Casebier, LeMaster, Seum.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 24, 1988

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend J. Williamson Brown, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 23, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 138**, **SB 154**, **SB 157**, **SB 158**, **SB 163**, **SB 197**, **SB 217**, **SB 218**, **SB 223**, **HB 25** with Senate Committee Substitute, **HB 9**, **HB 34**, **HB 60**, **HB 72**, **HB 74**, **HB 75**, **HB 79**, **HB 195**, **HB 218**, **HB 237**, **HB 284**, **HB 302** and **HB 422**.

Introduction of Bills and Resolutions

HB 768, by Representative Siler: AN ACT relating to insurance.

HB 769, by Representatives Morris, Richards, Worthington, Blandford, Stumbo and Rapier: AN ACT relating to industrial loan companies.

HB 770, by Representative Kerr: AN ACT relating to worker's compensation.

HB 771, by Representative B. Smith: AN ACT relating to liability insurance for local governments.

HB 772, by Representatives Yates, Blevins, L. Clark, Lile, Priddy, Kerr and Bronger: AN ACT relating to crimes and punishments.

HB 773, by Representative Geveden: AN ACT relating to certificates of need.

HB 774, by Representatives LeMaster, B. Jones, Deskins, B. Richardson, Overstreet, Arnold, Bronger and Johnson: AN ACT proposing an amendment to the Kentucky Constitution relating to elections of general assembly members.

HB 775, by Representative Gregory: AN ACT relating to campaign finance limitations for statewide elected officers.

HB 776, by Representatives Scorsone, Priddy, Geveden, Deskins, Jackson, Seum and Lile: AN ACT relating to crimes and punishments.

HCR 109, by Representative Riner: A CONCURRENT RESOLUTION directing the Interim Joint Committee on State Government to study state procurement policies as they relate to minority owned businesses.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 753**.

Appropriations and Revenue: **HB 760, HB 762, HB 765, HR 106.**

Cities: **HB 756.**

Education: **HB 764.**

Energy: **HB 758.**

Health and Welfare: **HB 759.**

Judiciary-Civil: **HB 752, HB 754, HB 763.**

Judiciary-Criminal: **HB 766, HB 767.**

Natural Resources and Environment: **HB 755.**

State Government: **HB 761, SB 237.**

Transportation: **HB 757.**

Report of Committees

The Committee on Rules reported **HB 571, HB 656** and **HB 657** have been posted for passage in Orders of the Day, February 25, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, February 25, 1988: **HB 642.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Banking and Insurance: **HB 675.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 324** with Committee Substitute attached thereto, and **HB 654** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 324. AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Personal property exempt from taxation which is leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit is subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of the property, except for personal property used in vending stands operated by blind persons under the auspices of the department for the blind.

(2) Taxes shall be assessed to lessees or users of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section do not become a lien against the personal property. When due, such taxes constitute a debt due from the lessee or user to the state, county, school district, special district, city or urban-county government for which the taxes were assessed

and if unpaid are recoverable by the state by action in Franklin Circuit Court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) When any real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit, it is subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of the real estate.

(2) Subsection (1) of this section does not apply to:

(a) Property located upon or within the limits of a public airport, park, market, fairground or upon similar property which is available to the use of the general public;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior; or

(e) Vending stand locations and facilities operated by blind persons under the auspices of the department for the blind, regardless of whether the property is owned by the federal, state or a local government.

(3) Taxes shall be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, such taxes constitute a debt due from the lessee or user to the state, county, school district, special district or urban-county government for which the taxes were assessed and if unpaid are recoverable by the state.

The Committee Substitute to **HB 324** is as follows:

HB 324, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) A leasehold interest in personal property exempt from taxation, when such leasehold interest is held by a natural person, association or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except for a leasehold interest in personal property used in vending stands operated by blind persons under the auspices of the department for the blind.

(2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state by action in Franklin Circuit Court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) When any real estate which for any reason is exempt from taxation is leased to a natural person, association, partnership or corporation in connection with a business conducted for profit, the leasehold interest shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the real estate.

(2) Subsection (1) of this section shall not apply to leasehold interests in:

(a) Industrial buildings, as defined under KRS 103.200, used and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution; or

(d) Vending stand locations and facilities operated by blind persons under the auspices of the department for the blind, regardless of whether the property is owned by the federal, state or a local government.

(3) Taxes shall be assessed to lessees of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee or user to the state, county, school district, special district or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state.

HB 654, AN ACT relating to boats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The assessment of all motorboats as defined in KRS 235.010 shall be administered in the same manner and according to the same procedures provided for motor vehicles in KRS 132.487.

(2) The natural resources and environmental protection cabinet shall provide access to all records of motorboat registrations as necessary to prepare and maintain a complete tax roll of motorboats throughout each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) The collection of ad valorem taxes on motorboats shall be administered in the same manner and according to the same procedures provided for motor vehicles in KRS 134.800 to 134.820.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The transportation cabinet, the natural resources and environmental protection cabinet, the revenue cabinet, and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

Section 4. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery powered motor not to exceed one (1) horsepower, excluding those with generator systems; and

(b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the natural resources and environmental protection cabinet;

(8) "Bureau" means the bureau of natural resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means *county* [~~circuit court~~] clerk;

(11) "Division of water patrol" means the division of water patrol , bureau of natural resources.

Section 5. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the *county* [~~circuit court~~] clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the *county* [~~circuit court~~] clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in quadruplicate with one (1) copy to be retained by the *county* [~~circuit court~~] clerk, one (1) copy to be forwarded to the department, one (1) copy to be forwarded to the county property valuation administrator, and the original to constitute a current registration certificate. The application shall be accompanied by:

(a) A bill of sale, if the application is for registration of a new motorboat; or

(b) The owner's registration receipt if the motorboat was last registered in this state; or

(c) A bill of sale and the previous registration receipt if last registered in another state; and

(d) The annual registration fee.

(2) Motorboats shall be registered annually.

Section 6. KRS 235.060 is amended to read as follows:

All original, renewal and duplicate licenses for the operation of motorboats shall be issued by the *county* [~~circuit court~~] clerk in the county in which the motorboat is registered, except the department shall issue manufacturers' and dealers' registrations and registrations for federal and state agencies.

Section 7. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the *county* [~~circuit court~~] clerk of the county as provided in KRS 235.050 and make application on a form furnished by the department. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, present resident address, *situs for ad valorem tax assessment,* the make of the boat, hull identification number (HIN), if any, length, beam, model and horsepower of motor, maximum capacity, type of hull material, intended use of the boat, and whether the fuel is gasoline, diesel or other. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations promulgated pursuant to this chapter. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a current certificate of number or renewal thereof.

(4) No certificate of number or renewal thereof for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to this chapter.

Section 8. KRS 235.090 is amended to read as follows:

On Monday of each week the *county* [~~circuit court~~] clerk shall make a written report to the department which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar week preceding the report. The applications for registration and the fees collected by the clerk shall be forwarded with the said report to the department.

Section 9. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) It shall be the duty of the purchaser to record the indorsed certificate of number with the *county* [~~circuit court~~] clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated except as provided in KRS 235.060, and to pay a transfer fee of one dollar ($1). The clerk thereupon shall forward the indorsed certificate of number and the transfer fee to the department. The clerk shall charge the purchaser a fee of fifty cents ($.50). The fees provided in this section shall be deposited in the manner provided for in KRS 30A.120.

Section 10. KRS 235.150 is amended to read as follows:

(1) The cabinet or *county* [~~circuit~~] clerk shall insofar as is practicable assign to each motorboat the number previously assigned thereto upon each subsequent registration.

(2) The certificate of number for a vessel not registered for three (3) consecutive years shall become invalid and that number shall become terminated insofar as that vessel is concerned. Vessels may be sold or transferred with their expired registration certificate for the purpose of pertinent information thereon. However, the clerk shall issue a new certificate of number to each vessel and the owner shall be required to remove the invalid number from the bow of the vessel and display the new number issued in accordance with the manner prescribed in KRS 235.110.

Section 11. KRS 235.180 is amended to read as follows:

The owner shall furnish the *county* [~~circuit court~~] clerk notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this state pursuant to the provisions of this chapter or of the destruction or abandonment of such motorboat, within fifteen (15) days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat, except, that in the case of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

Section 12. The effective date of this Act shall be January 1, 1990.

The Committee Amendment No. 1 to **HB 654** is as follows:

Amend printed copy of **HB 654** on page 1, line 20, after the word "The" by inserting the underlined words "*titling and*".

On page 3, line 23, after the word "for" by inserting "*title and*".

On page 4, line 1, after the word "for" by inserting "*title and*"; and

Line 3, after the word "last" by inserting "*titled and*"; and

Line 5, after the word "first" by inserting "*titled and*";

Beginning on line 7, by bracketing and striking through the following sentence: The application shall be in quadruplicate with one (1) copy to be retained by the *county* [circuit court] clerk, one (1) copy to be forwarded to the department, one (1) copy to be forwarded to the county property valuation administrator, and ~~the original to constitute a current registration certificate~~]" and

Line 12, after the word "application" by inserting "*for title and registration*".

On page 5, line 4, after the "a" by inserting "*title and registration for*" and by bracketing and striking through the phrase: "[~~license or certificate of number or renewal for operation of~~]".

On page 6, line 18, after the word "for" by inserting "*title and*"; and

Line 19, after the word "the" by inserting "*title and*"; and

Line 20, after the word "of" by inserting "*title and*"; and

Line 23, before the word "registration" by inserting "*title and*".

On page 7, line 2, after the word "of" by inserting "*title and registration*" and by bracketing and striking the word "[~~number~~]"; and

Line 5, after the word "of" by inserting "*title and registration*"; and by bracketing and striking through the word "[~~number~~]"; and

Line 10, after the word "of" by inserting "*title and registration*" and by bracketing and striking through the word "[~~number~~]"; and

Lines 21 through 26, by deleting lines 21, 22, 23, 24, 25 and 26 in their entirety.

On page 8, lines 1 through 4, by deleting lines 1, 2, 3, and 4 in their entirety; and

Line 15, after the word "of" by inserting "*title and registration*"; and

Line 18, after the word "of" by inserting "*title and registration*"; and

Line 18, after line 18, by inserting the following new language:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

The county clerk shall be entitled the same fee for the performance of the duties required in the issuance of certificates of title and registration for motor boats as is applicable to the title and registration of motor vehicles as provided by KRS 186.040"; and

Line 19, by deleting "SECTION 12" and inserting in lieu thereof "SECTION 13".

The Committee on Appropriations and Revenue reported **HB 442** with the expression of opinion that the same should pass with a recommendation for placing on the Consent Calendar. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 596** and **HB 616** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 596. AN ACT relating to corporation income tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the revenue cabinet;

(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1985, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employe pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employe; and

(e) Exclude social security and tier I railroad retirement benefits subject to federal income tax;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 and by section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120; [~~and~~]

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; *and*

(d) "Taxable net income" in the case of homeowners associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes

other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

HB 616, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.040 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, except those corporations listed in paragraphs (a) to *(i)* [~~(h)~~] of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3) and (4) of this section:

(a) S corporations;

(b) State and national banks and trust companies;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;

(g) Corporations exempt under section 501 of the Internal Revenue Code; [~~and~~]

(h) Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit; *and*

(i) Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced.

(2) For tax years ending before August 1, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000); and

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000).

(3) For tax years beginning after July 31, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before August 1, 1985, and ending after July 31, 1985, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through July 31, 1985, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from August 1, 1985, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000), determined under Chapter 1 of the Internal Revenue Code;

In no event shall the tax levied by this subsection apply if section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

Section 2. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.[~~;~~] *Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business maintained, occupied, or used by the person; or*

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. *An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser or solicitor for such person.*

The Committee on Counties and Special Districts reported **HB 677** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 677, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.117 is amended to read as follows:

(1) Any city or county may establish [~~a planning program as~~] an independent *planning* operation if the following required procedure is unsuccessful in establishing a joint planning unit encompassing the county and cities therein:[~~.~~]

(a)[~~(1)~~] A city shall interrogate the county and every other city therein to determine whether they desire to enter into an agreement to form a joint planning unit. The interrogation shall be in writing, addressed to the various legislative bodies stating proposed reasonable terms for combination and the reasoned purpose and objectives. The political subdivisions which have been interrogated shall have sixty (60) days in which to answer in writing and the city may assume that the answer is negative if no response is received within the sixty (60) days. If the county answers in the negative, then, *subject to the provisions of Section 3 of this Act and applicable succeeding sections of this chapter,* the city may engage in an independent planning operation *upon adoption of an ordinance creating an independent planning unit.* If the county responds affirmatively, then, *subject to the provisions of Section 3 of this Act and applicable succeeding sections of this chapter,* a joint planning unit shall be established *pursuant to KRS 100.121 and 100.127,* and no city located in such county may form an independent planning unit. If a city has been operating under an agreement under which its planning operations have been combined with one (1) or several counties or cities and the combination is broken, then it shall follow the procedure set forth in this subsection before it engages in an independent planning operation*; or*[~~.~~]

(b)[~~(2)~~] A county shall interrogate every incorporated city within its boundaries and otherwise be subject to following the procedure established for an independent city operation *as provided in paragraph (a) of subsection (1) of this section.*

(2)[~~(3)~~] In a county where independent planning units have been created in accordance with this section, another interrogation shall not be permitted for a period of four (4) years from the date of the previous letter of interrogation. If another interrogation is initiated, the required procedure as defined by this section, shall be followed. If the result of such an interrogation is creation of a joint planning unit, as permitted by KRS 100.121, then all the existing independent planning units shall be dissolved, and no city located in such county may form an independent planning unit. A period of one (1) year from the date of the letter of interrogation shall be permitted for the newly formed joint planning unit to come into existence, during which time the other necessary steps required by this chapter must be complied with and the dissolution of the independent units shall be effective upon compliance with requirements of this chapter, for creation of the joint planning unit, or at the end of the one (1) year period, whichever is first.

Section 2. KRS 100.127 is amended to read as follows:

(1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. *Subject to the provisions of Section 3 of this Act,* the agreement shall be adopted as an ordinance

by the legislative bodies which are parties to the agreement in accordance with the procedures for the adoption of an ordinance pursuant to KRS Chapters 67, 67A, 83, and 83A, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee of two and one-half dollars ($2.50) for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to 147.705. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.

(2) Agreements for planning units shall be in existence as long as at least two (2) of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee of two and one-half dollars ($2.50) for the filing.

(3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three (3) or five (5) member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.

SECTION 3. A NEW SECTION OF KRS 100.127 TO 100.133 IS CREATED TO READ AS FOLLOWS:

(1) If any city or county desires to establish an independent planning operation or to enter into a joint or regional planning operation as provided in this chapter, the legislative body of each city and the fiscal court of each county involved shall enact an ordinance stating the intention of the city or county to create an independent planning unit or an ordinance stating the intention of the city and the county to enter into an agreement creating a joint or regional planning unit. No ordinance shall be enacted until after the sixty (60) day interrogatory period provided in KRS 100.117.

(2) If, following the publication of an ordinance by a city or county pursuant to subsection (1) of this section and within sixty (60) days thereof, at least twenty percent (20%) of the resident voters within each political subdivision included within the proposed planning unit petition their respective local legislative bodies in opposition to the proposed planning unit, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk of the county in which the territory of the proposed planning unit is located. Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall send by registered mail a copy of the petition to each city legislative body and county fiscal court involved.

(3) If the county clerk finds the petition to be sufficient, the chief executive officer of each political subdivision to be included within the proposed planning unit shall deliver a certified copy of the ordinance creating the independent planning unit or a certified copy of the ordinance entering into a joint or regional planning unit to the county clerk of the county in which the territory of the proposed planning unit is located. The county clerk shall have printed on the ballot provided for use in each precinct embraced in whole or in part within the territory proposed to be included within the planning unit the question: "Are you in favor of establishing a planning operation as provided in KRS Chapter 100 for the (City of or County of) ....?" If only a part of any precinct is embraced within the territory proposed to be included within the planning unit, only those persons who reside within the territory proposed to be included within the planning unit shall be permitted to vote. The county clerk shall cause the sheriff to deliver to the election officers in each precinct copies of the ordinance proposing the creation of the planning unit.

(4) If less than fifty-one percent (51%) of the qualified voters in the area to be included within the proposed planning unit oppose establishing a planning operation, the legislative body may enact an ordinance creating the proposed planning unit.

(5) If fifty-one percent (51%) or more of the qualified voters in the area to be included within the proposed planning unit oppose establishing a planning operation, the ordinance proposing creation of the planning unit shall become ineffectual for any purpose.

(6) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received as set out herein, or within sixty (60) days of the certification of election results in which less than fifty-one

percent (51%) of the qualified voters in the area opposed establishing a planning operation, the legislative body of each city and the fiscal court of each county involved may enact an ordinance establishing a planning operation and creating a planning unit for the territory as described in the ordinance.

(7) Nothing in this section shall be so construed as to apply to any planning unit formed and established pursuant to the provisions of this chapter on or before the effective date of this Act.

The Committee on Energy reported **HB 625** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 625, AN ACT relating to liquefied petroleum gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 234.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 234.100 to 234.160 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(2) Any person who violates any regulation promulgated under provisions of KRS 234.100 to 234.160 and after having been given notice to cease and desist unless said violation is corrected within ten (10) days shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day said violation continues subsequent to the ten (10) day period.

(3) When any person violates any provision of KRS 234.100 to 234.180 or regulations, which violation constitutes a public danger, an immediate notice to cease and desist may be issued, and failure to comply with notice shall be held in violation, and failure to comply immediately upon presentation of said notice shall result in a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day said violation continues subsequent to the day of issuance of notice.

(4) Any person violating the provisions of KRS 234.200 to 234.260 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than sixty (60) days.

(5) Any firm or corporation violating the provisions of KRS 234.200 to 234.260 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person violating any provision of KRS 234.430 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense, he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary.

(7) Any person violating any provision of KRS 234.190 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for the first offense. Upon conviction of a second offense, and subsequent offenses, the violator shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not more than sixty (60) days, or both.

The Committee on Judiciary-Criminal reported **HB 350** with Committee Substitute and Committee Amendment attached thereto, **HB 353** with Committee Amendment attached thereto, **HB 503** with Committee Amendment attached thereto, **HB 548** with Committee Substitute and Committee Amendments attached thereto, **HB 556** with Committee Amendment attached thereto, **HB 600**, and **HB 626** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 350, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.410 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

[~~4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.~~]

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to such an exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof is upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof is upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.

(k) All lands or real property which are used in the planting, cultivation or harvesting of marijuana.

Section 2. KRS 218A.415 is amended to read as follows:

(1) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(3) When property subject to forfeiture under this chapter is seized, the law enforcement agency shall report the fact of the seizure within ten (10) days to the Commonwealth attorney of the judicial circuit or district having jurisdiction in the county where the seizure was made. Within thirty (30) days from the date the Commonwealth attorney receives notice of the seizure, he shall cause to be filed in the circuit or district court for the county in which the property is seized or detained an action for forfeiture of such property as provided for in this section. In the event more than one (1) county has the right to file forfeiture proceedings, the county where the actual physical seizure was made shall take precedence over other counties or jurisdictions which may have claims pursuant to this chapter.

(4) Forfeiture proceedings shall be brought in the name of the state by the Commonwealth attorney of the judicial circuit or district in which the property was seized. The action shall describe the property, state its location, present custodian and name of the owner, if known, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of a forfeiture action, the court shall promptly cause process to issue to the present custodian in possession of the property described in the action commanding him to seize and hold that property for further order of the court.

(5) A copy of the action shall be served on the owner or lessee of the property, if known. If the owner is known, a copy of the action shall also be served upon any person having a duly recorded security interest in or lien upon that property. If the owner or lessee is unknown or resides out of the state or departs the state or cannot, after due diligence, be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two (2) weeks in the newspaper of general circulation in which other legal advertisements are routinely published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any resulting sale of the property, but shall not constitute notice to any person having a duly recorded security interest in or lien upon such property who is required to be served under this section unless that person is unknown or resides out of the state or departs the state or cannot, after due diligence, be found within the state or conceals himself to avoid service.

(6) At the expiration of thirty (30) days after such filing, if no claimant has appeared to defend the action, the court shall order the disposition of the seized property as provided for in this chapter. If the court determines that a claimant defending the action knew or by the exercise of ordinary care should have known that the property was to be used for an unlawful purpose subjecting it to forfeiture under this chapter, the court shall order the disposition of the seized property and that claimant shall have no claim upon the property or proceeds from its sale.

Section 3. KRS 218A.430 is amended to read as follows:

(1) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)2. of KRS 218A.420, retained by law enforcement agencies of a city of the first class or of an urban-county government shall be retained by the city or urban-county government and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(2) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)2. of KRS 218A.420, retained by county law enforcement agencies in counties containing a city of the first class shall be retained by the county and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(3) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)3. of KRS 218A.420, retained by the Kentucky state police shall be retained by the state police and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(4) The first *one hundred and* fifty thousand dollars *($150,000)* [~~($50,000)~~] of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)1. or 2. of KRS 218A.420, retained by law enforcement agencies other than those specified in subsections (1) through (3) of this section shall be retained by the unit of government seizing such property and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(5) Money seized and money for all property sold by any other seizing law enforcement agency pursuant to KRS 218A.420 shall be deposited in the fund created by KRS 218A.435.

(6) In calculating the forfeitures to be retained in subsections (1) through (4) of this section, the first forfeitures in any calendar year up to the amount specified in the applicable subsection shall be retained as provided in that subsection.

The Committee Substitute to **HB 350** is as follows:

HB 350, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.410 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to *the possession of or trafficking in* marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to such an exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof is upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof is upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.

(k) All lands or real property which are used in the planting, cultivation or harvesting of marijuana or in the manufacture or sale of any controlled substance (if such offense constitutes a felony), if the owner of the land is convicted of a felony for such an offense. If the person convicted of a felony owns a part interest in the property subject to forfeiture, only the interest actually owned by the convicted person shall be subject to forfeiture.

Section 2. KRS 218A.415 is amended to read as follows:

(1) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(3) When property subject to forfeiture under this chapter is seized, the law enforcement agency shall report the fact of the seizure within ten (10) days to the Commonwealth attorney of the judicial circuit or district having jurisdiction in the county where the seizure was made. Within thirty (30) days from the date the Commonwealth attorney receives notice of the seizure, he shall cause to be filed in the circuit or district court for the county in which the property is seized or detained an action for forfeiture of such property as provided for in this section. In the event more than one (1) county has the right to file forfeiture proceedings, the county where the actual physical seizure was made shall take precedence over other counties or jurisdictions which may have claims pursuant to this chapter.

(4) Forfeiture proceedings shall be brought in the name of the state by the Commonwealth attorney of the judicial circuit or district in which the property was seized. The action shall describe the property, state its location, present custodian and name of the owner, if known, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of a forfeiture action, the court shall promptly cause process to issue to the present custodian in possession of the property described in the action commanding him to seize and hold that property for further order of the court.

(5) A copy of the action shall be served on the owner or lessee of the property, if known. If the owner is known, a copy of the action shall also be served upon any person having a duly recorded security interest in or lien upon that property. If the owner or lessee is unknown or resides out of the state or departs the state or cannot, after due diligence, be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two (2) weeks in the newspaper of general circulation in which other legal advertisements are routinely published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any resulting sale of the property, but shall not constitute notice to any person having a duly recorded security interest in or lien upon such property who is required to be served under this section unless that person is unknown or resides out of the state or departs the state or cannot, after due diligence, be found within the state or conceals himself to avoid service.

(6) At the expiration of thirty (30) days after such filing, if no claimant has appeared to defend the action, the court shall order the disposition of the seized property as provided for in this chapter. If the court determines that a claimant defending the action knew or by the exercise of ordinary care should have known that the property was to be used for an unlawful purpose subjecting it to forfeiture under this chapter, the court shall order the disposition of the seized property and that claimant shall have no claim upon the property or proceeds from its sale.

(7) The commonwealth's attorney who prepares the action and has it filed, as provided in this section,

and performs his other duties in respect to the forfeiture shall be entitled to ten percent (10%) of the total amount forfeited. Such commission shall be paid to him by the court when making distribution, as provided by law.

Section 3. KRS 218A.430 is amended to read as follows:

(1) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)2. of KRS 218A.420, retained by law enforcement agencies of a city of the first class or of an urban-county government shall be retained by the city or urban-county government and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(2) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)2. of KRS 218A.420, retained by county law enforcement agencies in counties containing a city of the first class shall be retained by the county and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(3) The first *three* [~~one~~] hundred thousand dollars *($300,000)* [~~($100,000)~~] of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)3. of KRS 218A.420, retained by the Kentucky state police shall be retained by the state police and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(4) The first *one hundred and* fifty thousand dollars *($150,000)* [~~($50,000)~~] of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)1. or 2. of KRS 218A.420, retained by law enforcement agencies other than those specified in subsections (1) through (3) of this section shall be retained by the unit of government seizing such property and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in KRS 218A.435.

(5) Money seized and money for all property sold by any other seizing law enforcement agency pursuant to KRS 218A.420 shall be deposited in the fund created by KRS 218A.435.

(6) In calculating the forfeitures to be retained in subsections (1) through (4) of this section, the first forfeitures in any calendar year up to the amount specified in the applicable subsection shall be retained as provided in that subsection.

The Committee Amendment No. 1 to **HB 350** is as follows:

Amend printed copy of House Committee Substitute for **HB 350** on page 8, line 15, after "*to*" to insert "*the Commonwealth's attorney's office*" and to delete "*him*"

HB 353, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000),

or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana [~~for the purposes of sale~~] shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) [~~If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.~~

~~(c)~~] No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of

this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

The Committee Amendment No. 1 to **HB 353** is as follows:

Amend printed copy of **HB 353** on page 4, line 6, to delete the bracket and strike through of "for the"; and

On page 4, line 7, to delete bracket and strike through of "purposes of sale"; and

On page 4, line 12, to delete all brackets and strike through; and

On page 4, line 13, to delete the brackets and strike through of "cultivates or harvests" and to place an opening bracket before "twenty-five" and to place a closing bracket after "(25)" and to delete the brackets and strike through of "or more plants of" and to place *"five (5)"* before "(25)"; and

On page 4, lines 14, 15, 16 and 17, to delete all brackets and strike through

HB 503, AN ACT relating to statutes of limitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.110 is amended to read as follows:

(1) All claims must be filed with the board of claims within one (1) year from the time the claim for relief accrued.

(2) The claim for relief shall be deemed to accrue at the time of the negligent act with regard to property damage.

(3) The claim for relief for personal injury shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury shall be commenced beyond two (2) years from the date on which the alleged negligent act or omission actually occurred.

(4) Notwithstanding subsection (3) of this section, the claim for relief for medical malpractice shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury as a result of medical malpractice shall be commenced beyond three (3) years from the date on which the alleged negligent act or omission of malpractice actually occurred.

(5) If at the time the alleged negligent act or omission occurred or if at the time the claim for relief accrued or thereafter, the claimant is an infant or of unsound mind or under any other legal disability to file suit, a guardian or next friend or committee or other qualified representative shall bring such action in the board of claims on behalf of such person within the same time limitation set forth herein or the claim is barred, notwithstanding KRS 413.170 *and*[~~,~~] 413.280 [~~and 413.310~~]. If there is no guardian or committee or he is unwilling or unable to act or is himself a claimant, the board of claims shall appoint a guardian ad litem to represent the interests of the claimant under legal disability. The board of claims shall allow the guardian ad litem a reasonable fee for his services, to be taxed as costs.

Section 2. KRS 413.310, Plaintiff's confinement in penitentiary, is repealed.

The Committee Amendment No. 1 to **HB 503** is as follows:

Amend printed copy of **HB 503** on page 2, lines 11 and 12, to delete "*and*" and to delete all brackets and strike throughs; and

On page 2, lines 19 and 20, to delete the same and in insert in lieu thereof:

"Section 2. KRS 413.310 is amended to read as follows:

Except for suits arising from the arrest or confinement of the plaintiff, the time of the confinement of the plaintiff in the penitentiary shall not be counted as part of the period limited for the commencement of an action."

HB 548, AN ACT relating to sexual assault with an object.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of sexual assault with an object when he unlawfully inserts an object other than a part of the human body into the sex organ or anus of another person.

(2) Sexual assault with an object is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

The Committee Substitute to **HB 548** is as follows:

HB 548, AN ACT relating to sexual assault with an object.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of sexual assault with an object when:

(a) He inserts an object other than a part of the human body into the sex organ or anus of another person by forcible compulsion; or

(b) He inserts an object other than a part of the human body into the sex organ or anus of another person who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old.

(2) Sexual assault with an object is a Class B felony unless the victim is under twelve (12) years of age or receives a serious physical injury, in which case it is a Class A felony.

(3) This section shall not apply to the acts of a person if those acts are committed for the purpose of administering a recognized form of treatment which the defendent believes to be adapted to promoting the physical or mental health of that person.

The Committee Amendment No. 1 to **HB 548** is as follows:

Amend printed copy of **HB 548** on page 1, line 13, to delete "*B*" and to insert in lieu thereof "*C*"; and

On page 1, line 16, to delete "*A*" and to insert in lieu thereof "*B*"

The Committee Title Amendment to **HB 548** is as follows:

Amend printed copy of **HB 548** on page 1, the title, to delete the title appearing thereon and to insert in lieu thereof "AN ACT relating to sexual offenses."

HB 556, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of patronizing a prostitute when, as a patron, he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Patronizing a prostitute is a Class B misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of soliciting prostitution when, acting as a patron, he engages in conduct proscribed by KRS 506.030 with regard to the solicitation of a violation of KRS 529.020.

(2) Soliciting prostitution is a violation.

The Committee Amendment No. 1 to **HB 556** is as follows:

Amend printed copy of **HB 556** on page 1, lines 9 through 15, to delete the same.

HB 600, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when with recklessness he causes or attempts to cause physical injury to a state, county, city, or federal peace officer, [~~or~~] probation and parole officer *or to any other person, whether a law enforcement officer or not,* by means of a deadly weapon or a dangerous instrument.

(2) Assault in the third degree is a Class D felony.

HB 626, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) When a defendant is found to be a persistent violent misdemeanant, the jury shall fix a sentence of imprisonment as authorized by subsection (5) of this section. When a defendant is charged with being a persistent violent misdemeanant, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) As used in these sections "persistent violent misdemeanant" means any person who has been convicted of or pled guilty to the commission of the following violent misdemeanor offenses: assault in the fourth degree (KRS 508.030); assault under extreme emotional disturbance (KRS 508.040); menacing (KRS 508.050); wanton endangerment in the second degree (KRS 508.070); terroristic threatening (KRS 508.080); criminal abuse in the third degree (KRS 508.120); unlawful imprisonment in the second degree (KRS 509.030); sodomy in the fourth degree (KRS 510.100); sexual abuse in the second degree (KRS 510.120); sexual abuse in the third degree (KRS 510.130); carrying concealed weapon (KRS 527.020); possession of defaced firearms (KRS 527.050) and endangering welfare of incompetent person (KRS 530.080).

(3) A persistent violent misdemeanant is a person who is more than eighteen (18) years of age and who stands convicted of a violent misdemeanor after having been convicted of two (2) or more violent misdemeanors. As used in this provision, a previous violent misdemeanor conviction is a conviction of a violent misdemeanor in this state or conviction of a crime in any other jurisdiction provided:

(a) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(b) That the offender:

1. Completed service of the sentence imposed on any of the previous violent misdemeanor convictions within five (5) years prior to the date of the commission of the violent misdemeanor for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous violent misdemeanor convictions at the time of commission of the violent misdemeanor for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous violent misdemeanor convictions within five (5) years prior to the date of commission of the violent misdemeanor for which he now stands convicted; or

4. Was in custody from the previous violent misdemeanor conviction at the time of commission of the violent misdemeanor for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous violent misdemeanor convictions at the time of commission of the violent misdemeanor for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous violent misdemeanor convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent violent misdemeanant shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than five (5) years not more than ten (10) years.

(6) A person who is found to be a persistent violent misdemeanant shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than five (5) years.

The Committee Substitute to **HB 626** is as follows:

HB 626. AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) When a defendant is found to be a persistent violent misdemeanant, the jury shall fix a sentence of imprisonment as authorized by subsection (5) of this section. When a defendant is charged with being a persistent violent misdemeanant, the determination of whether or not he is such an offender and the punishment to be

imposed pursuant to subsection (5) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) As used in these sections "persistent violent misdemeanant" means any person who has been convicted of or pled guilty to the commission of the following violent misdemeanor offenses: assault in the fourth degree (KRS 508.030); assault under extreme emotional disturbance (KRS 508.040); menacing (KRS 508.050); wanton endangerment in the second degree (KRS 508.070); criminal abuse in the third degree (KRS 508.120); unlawful imprisonment in the second degree (KRS 509.030); sexual abuse in the second degree (KRS 510.120); sexual abuse in the third degree (KRS 510.130) and endangering welfare of incompetent person (KRS 530.080).

(3) A persistent violent misdemeanant is a person who is more than eighteen (18) years of age and who stands convicted of a violent misdemeanor after having been convicted of two (2) or more violent misdemeanors within a ten (10) year period. As used in this provision, a previous violent misdemeanor conviction is a conviction of a violent misdemeanor in this state or conviction of a similar crime in any other jurisdiction provided:

(a) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(b) That the offender:

1. Completed service of the sentence imposed on any of the previous violent misdemeanor convictions within five (5) years prior to the date of the commission of the violent misdemeanor for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous violent misdemeanor convictions at the time of commission of the violent misdemeanor for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous violent misdemeanor convictions within five (5) years prior to the date of commission of the violent misdemeanor for which he now stands convicted; or

4. Was in custody from the previous violent misdemeanor conviction at the time of commission of the violent misdemeanor for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous violent misdemeanor convictions at the time of commission of the violent misdemeanor for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous violent misdemeanor convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent violent misdemeanant shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration consisting of:

(a) The sentence for the underlying misdemeanor; and

(b) A penalty enhancement of five (5) years, both to be served in the penitentiary.

The sentences in subsections (a) and (b) of this section shall be served consecutively.

Calendar

HB 209, HB 220, HB 345, SB 38, SB 72, HB 441, HB 476, HB 26, HB 173, HB 414, HB 582, HCR 30, SB 4, HB 283, HB 357, HB 360 and **HB 687** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 347** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:20 p.m.)

HB 347 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Representative Stumbo moved that the House stand at ease to wait upon the Senate. Agreed.

Representative Stumbo moved that floor privileges be granted to the Justices of the Supreme Court and invited guests. Agreed.

The Honorable Brereton C. Jones, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Lieutenant Governor Jones assumed the chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The doorkeeper announced the arrival of Chief Justice Robert F. Stephens.

The Committee of the House, along with a like Committee from the Senate, previously appointed to wait upon the Chief Justice, escorted him to the podium.

The Honorable Brereton C. Jones introduced the Honorable Robert F. Stephens, Chief Justice of the Supreme Court of the Commonwealth of Kentucky.

Chief Justice Robert F. Stephens addressed the General Assembly as follows:

Mr. Lt. Governor, Mr. Speaker, Members of the House, Members of the Senate, Members of the Judiciary, Cabinet Officers, Guests and Citizens of the Commonwealth:

It is my pleasure and my privilege, as well as my constitutional duty . to appear before you and to deliver to you - and to the citizens of Kentucky - my report, as Chief Justice, on the status of the Kentucky Court of Justice. This is my third appearance before you, and I can tell you, in summary, that because of your understanding, your interest and sufficient appropriations in the past, and also because of a lot of work and creativity by the employees of the Judiciary, that the present condition of the Judiciary in the Commonwealth is good. With your help and your encouragement, we have done much to take the best constitutional court structure and make it into the best functioning court system in the United States. The Kentucky Court of Justice is a model that is constantly studied and copied by many of our sister states. While together we have done much, there is, as you would expect, much more to do.

The caseload of the system is still increasing each year, although the growth rate of the increase is decreasing. As the General Assembly passes new laws, as the United States Congress passes new laws, as the United States Supreme Court renders new and binding opinions, and as the members of this present court open new legal vistas, our workload will continue to increase, moreover, as the economic, social and political climate of this country and this state changes, the difficulty and complexity of the matters before us increases. Judges - at all levels - are dealing with new and complex subjects, that 10 to 15 years ago, were non-existent in the Judicial System. They were not even subjects that were considered by courts.

Our Kentucky system of justice, of course, has experienced many problems as a result of this growth.

We have - with the help of the General Assembly - struggled to deal with the problems as they have surfaced - and, more importantly, we have tried to anticipate future problems to find viable and economical solutions therefor. Because of the worsening financial situation of the state, we no longer simply ask [or receive] money to throw at these problems. We have - and will continue - to use innovative ideas, creative techniques, and good management - to solve problems. We do not seek a "pat on the back" for this, because it is our duty to do so, in order to be fiscally responsible and responsive.

We are concentrating on the twin problems of court delay and increasing costs. One extremely effective technique to cope with both of those problems is the use of video-taping systems. I report to you that we now have 19 systems in place in various circuit courtrooms, and we will soon have 4 more. These systems of video cameras instantly record trials and the video tapes are the court record on appeal. Our commitment is to place video systems throughout the Commonwealth, subject to your support. Needless to say, the time for preparing a record on appeal has been reduced to literally nothing, and the cost of such a record has been reduced to next to nothing. This has benefitted the litigants who pay the cost, and it has also saved about $75,000 per year [from our budget] for the preparation of transcripts of evidence in indigent criminal appeals. Interestingly and importantly, the video taping system pays for itself by abolishing the need for salaried court reporters.

In addition - you have given us the funds to hire 21 law clerks for the Circuit Judges. We have allocated them to the judges with the heaviest caseloads. While there are no formal statistics to prove it, I can tell you that the quality of the work of those judges has improved greatly and the time for disposition of cases in those courts is decreasing rapidly. We are committed - with your help - to continue and extend that program. We believe that the presence of law clerks has obviated the necessity for any new Circuit Judges and I can report to those of you who have not seen our budget that we will not ask for any new Circuit Judges now, or in 1990.

Apropos to that, I would like to report to you that, in response to a 1986 legislative resolution, sponsored by Representative Bob Jones, a committee to investigate possible re-circuiting of Circuit Court Districts has been completed. Rather than further burden this General Assembly with a complex, and highly controversal bill, I have begun an administrative process which will, when finished, equalize the caseload of the Circuit Judges in this state. The disparity in case filings, from a low of 459 per year to a high of 1250 per year, will be changed so that virtually all of the 91 Circuit Judges will have a caseload of between 700 to 900 cases per year. This figure is the parameter that we feel is acceptable and takes into consideration such items as travel in a multi-county district, the difficulty of cases filed in particular circuits, and the varying legal cultures that are present in this state. As of today, we have completed and implemented a plan which will solve the extensive workload of the judge in the Boone and Gallatin Circuit, and the Circuit Judge in Oldham, Henry, and Trimble Counties. Circuit Judges from neighboring areas who have less than 700 cases per year will step in and handle the excess caseload in those 2 circuits. With any luck, we will have all of the efforts to equalize the caseload completed by July 1, 1988. Moreover, we will review the caseload figures every year and make any appropriate further adjustments.

Administrative procedures and policies have been implemented to speed up the decision making process in the Court of Appeals — which is, by far, the most overburdened of all our courts in the system. A special mandatory settlement and issue-narrowing conference has been extraordinarily successful. Twenty-six percent of the cases which have been before one of the two conference attorneys have been settled, prior to briefing and arguments. In addition, cases which are basically uncomplex have been identified and assigned to our so-called special appeals panel, at which three Court of Appeals Judges hear arguments without new briefs and in an informal atmosphere. The results have also been astounding. The caseload of the judges who sit on those special panels has been more than doubled and the disposition time of those cases has been reduced considerably.

My pledge to you is to continue to look for new and creative ways to deal with the problems that beset us. Let me give you one possibility which the Administrative Office of the Courts is now exploring. As you know, every government agency is being inundated with a paper flow of astronomical proportions. The Judicial System is an especial victim of this, and our problem is exacerbated by the fact that we must keep and store court records for years. New courthouse construction now costs about $100 per square foot. Much of this space is used for the storage of records. In order to find a possible solution, we are now negotiating with an electronics information company to create a system where all cases will be photographed, and placed on a laser disc. While I know little or nothing of electronics, I am told that, under this process, all of the court records of this state, since 1787, could be stored in one room less than the size of this chamber. We hope to have a pilot project in place this year — using some of our computer money — so that we can show you a working model in 1990. We are striving, by this technology, to create a paperless court.

Today is not the time to dwell on our monetary problems. I have been aware of the financial situation of the state for several years, as you have. The Court of Justice Budget — already introduced and already scrutinized by the Appropriations and Revenue Committee of the Senate and by the Appropriations and Revenue Subcommittee on Courts of the House — has been described as being "Very Austere." It is, and I hope you agree. Your interest in the past has made much progress possible and I trust you will be able to support our efforts in the future.

Under the specific provisions of the Kentucky Constitution, the Judicial branch of government is an independent, and equal branch of government, with the General Assembly and the Executive. Our job - among many other things - is to occasionally review Legislative enactments of the General Assembly. It is not an easy job for us to strike down a statute, particularly when its subject matter is a politically popular one. We do so because, under the Kentucky Constitution, it is part of our job. I would be remiss if I did not publicly say that in the eight plus years that I have been on this Court, when we declared a statute to be unconstitutional, I have yet to have any member of the General Assembly, either verbally or through the process of introducing legislation, show any recrimination or punitive reaction to our decision. By so doing, you have shown respect for the independency of the Judiciary. I congratulate you for this attitude.

The General Assembly is now addressing — and in my opinion, properly so — many of the evils of our system of elections in Kentucky. If I understand the bills, the election of judges will be included in the provisions of those statutes. For whatever it is worth, I totally concur and further congratulate you. The long arm of the special interests, the big money people - has traditionally extended its efforts to the election of Presidents, Governors, Legislators, Congressmen, County Judges, Mayors, and the like. Unfortunately, however, many of those special interests are now, even as we speak - taking dead aim on the third branch of government - the Judiciary. Economic, social, and political interests are seeking control of trial judges and appellate judges. In the case of the latter, efforts are being made to elect men and women to the bench whose philosophy reflects that of the contributor. Examples of these are numerous — and growing. In the famous Penzoil v. Texaco case, a large sum of money was given to the trial judge - prior to trial - ostensibly to assist him in his re-election campaign. In response, the other side gave an even larger sum to several Supreme Court Justices who would, presumely, review the decision of the trial judge. In Ohio, in the 1986 election, a total of nearly three million dollars was spent in the statewide election of the Chief Justice of that state. I can assure you that this pernicious practice will grow. In my opinion, this trend will destroy the traditional independence, fairness, and objectivity of the Judicial branch of government. It, above all, must be non-political, just, and fair in its decisions.

The legislation that the General Assembly has proposed will certainly help. I would like to suggest to you a constitutional amendment which I believe [along with most people who have researched the problem] will further help to take politics out of Judicial elections and which should, ultimately, improve the quality of justice. It deals with the selection of judges and is normally referred to as the "Missouri Plan". Basically it provides a method of filling judicial vacancies through the screening process of a nominating commission consisting of nine members — four lay people, appointed by the Governor, two from each of the major political parties; four attorneys elected by the bar in the particular Judicial district; and the Chief Justice. This particular procedure is similar to the one we have now, except the number of attorney members and lay members would be equal. The Commission would certify to the appointing authority — the Governor — three qualified people — for his or her action. When the appointive term is over, or when the Judge's regular term is over, his or her name would be submitted to the public with the simple question: "Should 'X' be retained as a Judge or the 'Y' Court?" If a majority of those voting say yes, the Judge is, in effect, retained in office. If a majority says no, the Judge is out, and the vacancy-filling process begins. I know the system has it objections and its detractors. It is certainly not perfect. But, in my judgment, it removes much of the influence of politics and the big money people. A majority of our sister states have this plan in some form and, by and large, they are well satisfied.

Hopefully, this will be submitted to the General Assembly for a possible constitutional amendment. I believe it is a much better plan than we now have and is consistent with your efforts to "clean-up" the elective process.

In conclusion, I want to thank the General Assembly for what you have done in the past. Our budget is normally only 2.4 to 2.6 percent of the entire General Fund Budget, and I suppose is not as important to you or to your constituents, as most others. But I remind you - that an independent, properly functioning court system is the greatest protection that can be afforded to the people against any incursion of their freedoms — whether from other governments, entities or from individuals. I only hope and trust that this General Assembly will continue to see that the Kentucky Court of Justice - a model in these United States - continues to so function.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

The Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 560, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of Floor Amendment No. 1 to **HB 560**. Agreed.

Representative T. Jones moved that **HB 560**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 24, 1988 roll call on **HB 560** - Appendix A.)

HB 560, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 560**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 638 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 638** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 24, 1988 roll call on **HB 638** - Appendix A.)

HB 638 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 638** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved the adoption of Committee Amendment No. 1 to **HB 583**. Agreed.

Representative K. Harper moved that **HB 583**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 24, 1988 roll call on **HB 583** - Appendix A.)

HB 583, as amended, was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 583**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 17** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 24, 1988 roll call on **HB 17** - Appendix A.)

HB 17 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 17** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 69, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of Floor Amendment No. 1 to **HCR 69**. Agreed.

Representative Reinhardt moved the adoption of Floor Amendment No. 2 to **HCR 69**. Agreed.

Representative Reinhardt moved that **HCR 69**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 24, 1988 roll call on **HCR 69** - Appendix A.)

HCR 69, as amended, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HCR 69**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 77** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:02 p.m.)

Orders of the Day (continued)

HB 462, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 462**. Agreed.

Representative B. Smith moved that **HB 462**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 3. (See February 24, 1988 roll call on **HB 462** - Appendix A.)

HB 462, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 462**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 408, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Substitute to **HB 408**. Agreed.

Representative Farrow moved that **HB 408**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 24, 1988 roll call on **HB 408** - Appendix A.)

HB 408, by way of Committee Substitute, was passed.

Representative Farrow moved the adoption of the Floor Title Amendment to **HB 408**. Agreed; and the title agreed to.

Representative Farrow moved that the vote by which **HB 408**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

SB 8 returned with the following message: The Senate has refused to concur in the House Committee Amendments No. 1, 2 and 3 and respectfully returns it with the request that this Honorable Body recede from the Amendments.

Message received on **SB 2**: The Senate has appointed Senators Bradley, Clouse and Haering to serve on a Conference Committee on **SB 2**.

Orders of the Day (continued)

HB 18, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Committee Substitute to **HB 18**. Agreed.

Representative McElroy moved that **HB 18**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See February 24, 1988 roll call on **HB 18** - Appendix A.)

HB 18, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 18**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 641 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 641** be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See February 24, 1988 roll call on **HB 641** - Appendix A.)

HB 641 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 641** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 590, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 590**. Agreed.

Representative Clarke moved that **HB 590**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 24, 1988 roll call on **HB 590** - Appendix A.)

HB 590, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 590**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 9**, **HB 34**, **HB 60**, **HB 72**, **HB 74**, **HB 75**, **HB 79**, **HB 195**, **HB 218**, **HB 237**, **HB 284**, **HB 302** and **HB 422** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:26 p.m.)

HB 9, **HB 34**, **HB 60**, **HB 72**, **HB 74**, **HB 75**, **HB 79**, **HB 195**, **HB 218**, **HB 237**, **HB 284**, **HB 302** and **HB 422** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 456, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of Committee Amendment No. 1 to **HB 456**. Agreed.

Representative Lundergan moved the adoption of Committee Amendment No. 2 to **HB 456**. Agreed.

Representative Lundergan moved that **HB 456**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 13. (See February 24, 1988 roll call on **HB 456** - Appendix A.)

HB 456, as amended, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 456**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 777, by Representative B. Richardson: AN ACT relating to fraternal benefit societies.

HB 778, by Representative Barrows: AN ACT relating to school transportation.

HB 779, by Representative Barrows: AN ACT relating to school fund raising activities.

HB 780, by Representative Hatcher: AN ACT relating to occupational safety and health of employes.

HB 781, by Representative Hatcher: AN ACT relating to holidays.

HB 782, by Representative Adkins: AN ACT relating to area development funds.

HB 783, by Representative Lear: AN ACT relating to standards of fiduciary care and performance.

HB 784, by Representatives Gedling, Geveden and Farrow: AN ACT relating to the Kentucky Grain Insurance Corporation.

HB 785, by Representatives Cline, Adkins, B. Smith and Cyrus: AN ACT relating to enterprise zones.

HB 786, by Representative R. Smith: AN ACT relating to motor vehicle insurance.

HB 787, by Representative Geveden: AN ACT relating to local solid waste management services.

HB 788, by Representatives Richards, B. Smith and Altman: AN ACT relating to retirement.

HB 789, by Representative Clarke: AN ACT relating to taxpayer appeals.

HB 790, by Representatives Clarke, Rapier, Long, Hancock, Noe, T. Jones, Barrows, B. Jones, Blevins, Curd, Moberly and Worthington: AN ACT relating to revenue and taxation.

HB 791, by Representatives P. Richardson and Johnson: AN ACT relating to occupational therapy.

HB 792, by Representative Johnson: AN ACT relating to compulsory attendance.

HB 793, by Representatives R. Smith, Stumbo and Adkins: AN ACT relating to fish and wildlife.

HB 794, by Representative Northup: AN ACT relating to teacher certification.

HB 795, by Representatives Yates and Priddy: AN ACT relating to individual income tax.

HB 796, by Representatives Yates, Priddy and Nett: AN ACT relating to blighted and deteriorated property.

HB 797, by Representative Scorsone: AN ACT relating to statutory liens.

HCR 110, by Representative Clarke: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to study the implementation of a performance measurement system for state government programs and agencies.

HR 111, by Representative P. Richardson: A RESOLUTION of appreciation to Brother Joe Adams and Thomas Nelson Publishing Company.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 228**.

Education: **HB 745, HB 746, HB 749, HB 764, HJR 71, HCR 90**.

Motions, Petitions and Communications

Representative LeMaster moved that Floor Amendment No. 2 to **HB 652** be withdrawn. Agreed.

Representative McElroy moved the adoption of the following **HR 108**:

HR 108, A RESOLUTION congratulating Representative Richard Gephardt.

WHEREAS, Representative Richard Gephardt is running for President of the United States; and

WHEREAS, the congressman from Missouri has many strong competitors for the Democratic nomination; and

WHEREAS, Representative Gephardt prevailed against the competition in winning the Democratic caucuses in Iowa; and

WHEREAS, Representative Gephardt came in second in the New Hampshire primary;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives congratulates Representative Richard Gephardt on his strong showing in Iowa and New Hampshire and wishes him well in his endeavors in the South.

Section 2. That a copy of this resolution be dispatched to Congressman Gephardt's national headquarters.

HR 108 was adopted by voice vote.

Representative Farrow moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farrow moved that he be recorded as voting "yea" on **HB 560**. Agreed.

Representative Maggard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 18**. Agreed.

Representative Scorsone moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Scorsone moved that he be recorded as voting "yea" on **HB 18**. Agreed.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that his vote be changed from "nay" to "yea" on **HB 641**. Agreed.

Representative Geveden moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 456**. Agreed.

Representative Todd moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that he be recorded as voting "yea" on **HB 463**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 176, Representative Handy; **HB 204**, Representatives Burch, Ridley, Walker; **HB 228**, Representative Deskins; **HB 246**, Representative M. Brown; **HB 248**, Representatives M. Brown and Seum; **HB 309**, Representative Riner; **HB 345**, Representative Burch; **HB 357**, Representative Layman; **HB 421**, Representative Burch; **HB 494**, Representative Lile; **HB 496**, Representative Callahan; **HB 582**, Representative LeMaster; **HB 583**, Representative Ackerson; **HB 589**, Representative M. Brown; **HB 766**, Representative Ridley; **HB 769**, Representative Lile; **HR 102**, Representative Morris.

The following members filed requests to have their names withdrawn as co-sponsors of Bills: **HB 595**, Representative Hatcher; **HB 370**, Representative Strong; **HB 675**, Representative Strong.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 8 to the Committee Substitute to **HB 496**, by Representative Farrow:

Amend printed copy of **HB 496/HCS** on page 4, line 24, by deleting the word "*such*" and by inserting after the word "*sheriffs*" the words "*in counties containing a city of the first class*"; and

On page 4, line 26, by adding after the word "*thereof,*" the words "*and the maximum annual salary for sheriffs in an urban county form of government shall be fixed by joint order of the mayor and the chief judge of the circuit court,*".

Floor Amendment No. 1 to **HB 656**, by Representative Deskins:

Amend printed copy of **HB 656** on page 7, line 6, after the word "manner." insert the following: "*In adopting the administrative regulations, consideration shall only be given to modifications of such performance standards as are necessary to address the terrain, climate, biologic, chemical and other physical conditions of this state. Justification shall be provided for any modifications at the time the administrative regulations are initially proposed.*"

The Clerk announced the following meetings:

The Committee on Agriculture and Small Business, February 25, 1988, 9:00 a.m., Room 103.

The Committee on Banking and Insurance, February 26, 1988, 9:00 a.m., Room 116.

The Committee on Cities, February 25, 1988, 8:30 a.m.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 25, 1988.

On the roll call the vote was yeas 85-Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gregory, Hancock, Handy, J. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Turner, Walker, White, Will, Worthington, Yates. Nays 1-LeMaster.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 25, 1988

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 24, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 3**, **SB 220**, **HB 413** with Senate Amendment, **HB 446** with Senate Committee Substitute, **HB 54** and **HB 55**.

Introduction of Bills and Resolutions

HB 798, by Representative Mack: AN ACT relating to fees.

HB 799, by Representative Clarke: AN ACT relating to the utility gross receipts license tax.

HB 800, by Representative Clarke: AN ACT relating to the utility gross receipts license tax.

HB 801, by Representative Clarke: AN ACT relating to the utility gross receipts license tax.

HB 802, by Representative Blevins: AN ACT relating to consumer protection.

HB 803, by Representatives Walker and Meyer: AN ACT relating to consumer protection.

HB 804, by Representatives R. Smith and B. Richardson: AN ACT relating to insurance rate regulation.

HB 805, by Representatives R. Smith and L. Clark: AN ACT relating to bankruptcy.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 784**.

Appropriations and Revenue: **HB 789**, **HB 790**, **HB 795**.

Banking and Insurance: **HB 768**, **HB 769**, **HB 777**, **HB 786**, **SB 197**.

Business Organizations and Professions: **SB 158**.

Cities: **SB 154**, **SB 217**, **SB 223**.

Counties and Special Districts: **HB 796**, **HB 771**.

Education: **HB 792**, **HB 794**, **HB 779**, **HB 778**.

Energy: **HB 780.**

Health and Welfare: **HB 773, HB 791.**

Judiciary-Civil: **HB 797, HB 783.**

Judiciary-Criminal: **HB 772, HB 776.**

Labor and Industry: **HB 770.**

Natural Resources and Environment: **HB 793, HB 787.**

State Government: **HCR 110, HCR 109, HB 774, HB 775, HB 781, HB 782, HB 785, HB 788, SB 163, SB 157, SB 138, SB 218.**

Report of Committees

The Committee on Rules reported **HB 26, HB 173, HB 220, HB 283, HB 360, HB 414, HB 476, HB 582, HCR 30, SB 4** and **SB 72** have been posted for passage in Orders of the Day, February 26, 1988.

The Committee on Agriculture and Small Business reported **HB 19**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19. AN ACT relating to job creation through a tax credit for venture capital investment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

This Act is known and may be cited as the "Commonwealth Venture Fund Act of 1988".

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The purposes of this Act are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by this Act, shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through this Act shall be used by that business to leverage additional capital investments from other sources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Commonwealth venture fund" means the venture capital corporation established and managed pursuant to Section 4 of this Act.

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; and

(d) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business and industry" means a Kentucky based company, with capitalization of less than five hundred thousand dollars ($500,000), employing less than one hundred (100) people.

SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) To carry out the purposes of this Act, a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4) and (5) of this section, with the name Commonwealth venture fund to provide financing to Kentucky based business entities including but not limited to corporations and partnerships.

(2) The financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to two hundred fifty thousand dollars ($250,000).

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) The secretaries of the Kentucky commerce and revenue cabinets, who shall act as co-chairmen of the panel;

(b) Two (2) members of the general assembly, one (1) of whom shall be a state senator appointed by the president pro tempore of the senate and the other a state representative appointed by the speaker of the house of representatives. Each shall serve a term of two (2) years and may be reappointed; and

(c) The following members appointed by the governor of the Commonwealth:

1. Two (2) members from the financial community, one (1) of whom shall be selected from a list of three (3) nominees submitted by the Kentucky bankers' association and another from a list of three (3) nominees submitted by the Kentucky league of savings institutions;

2. Two (2) members who are small businessmen from a small business or industry as defined in Section 3(5) of this Act and preferably small businessmen who have some direct experience with venture capital;

3. Two (2) members who are certified public accountants, selected from a list of three (3) nominees submitted by the Kentucky society of certified public accountants; and

4. Two (2) members who are deans of a college of business of a Kentucky university.

One (1) panel member from each of the above categories shall be appointed to serve a two (2) year term and one (1) appointed to serve a four (4) year term. All appointments shall be made within three (3) months of the effective date of this Act. After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member. The panel shall be staffed by the commerce and revenue cabinets.

(4) The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of this Act and on prudent financial and investment practices and standards.

(5) Any private financial entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel may select an applicant to be the managing firm of the Commonwealth venture fund.

(6) The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees, and determine the policy for dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund.

(7) Administrative regulations necessary to carry out the purposes of this Act shall be promulgated and issued by the panel and its respective staffs. The guidelines and regulations shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be promulgated.

SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Subject to Section 6 of this Act, a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1987, if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1988, 1989 and 1990. The total amount of credit that a taxpayer may receive under this Act shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (.4).

(2) The amount of credit that a taxpayer may receive under this Act for a particular taxable year shall not exceed the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1994. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this Act for any subsequent tax year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The total amount of credits allowed under this chapter shall not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under this Act shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) To receive the credit provided by this Act, a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the revenue cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the Commonwealth venture fund as to the qualified investment by the taxpayer.

(2) The managing firm of the Commonwealth venture fund shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment the following:

(a) The name, address, and employer identification number of the Commonwealth venture fund;

(b) The name, address and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the revenue cabinet shall be filed by the managing firm of the Commonwealth venture fund on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the managing firm of the Commonwealth venture fund and to the panel on or before that same date.

SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) If a qualified investment which is the basis for a credit under this chapter is redeemed by the fund or withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the revenue cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The reporting requirements from the managing firm to the panel, authorized in Section 4(7) of this Act, shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the governor and the legislative research commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

The Committee Substitute to **HB 19** is as follows:

HB 19, AN ACT relating to job creation through a tax credit for venture capital investment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

This Act is known and may be cited as the "Commonwealth Venture Fund Act of 1988".

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The purposes of this Act are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by this Act, shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through this Act shall be used by that business to leverage additional capital investments from other sources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Commonwealth venture fund" means the venture capital entity established and managed pursuant to Section 4 of this Act.

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; and

(d) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business" means a Kentucky based company, employing less than one hundred (100) people, with capitalization limits as follows:

(a) Less than five hundred thousand dollars ($500,000) for a non-manufacturing firm; or

(b) Less than one million five hundred thousand dollars ($1,500,000) for a manufacturing firm.

(6) "Capitalization" means owners' equity, common stock, preferred stock and retained earnings.

SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) (a) To carry out the purposes of this Act, a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4), (5) and (6) of this section, with the name Commonwealth venture fund to provide financing to Kentucky based businesses including but not limited to corporations and partnerships.

(b) Until such time as the fund is invested in such small businesses, it may be invested in such obligations and securities as the panel or the managing firm deem prudent.

(2) The financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to five hundred thousand dollars ($500,000).

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) The secretaries of the Kentucky finance and administration, commerce and revenue cabinets. The secretary of finance and administration shall act as chairman of the panel and the secretary of commerce shall act as vice-chairman;

(b) Five (5) members appointed by the governor for a term not exceeding four (4) years. The terms of these members shall expire and cease upon the election referred to in paragraph (c);

(c) When the fund has raised a minimum of five million dollars ($5,000,000) in commitments for investment and an initial closing has been held, the investors in the fund shall elect five (5) representatives to the panel for a two (2) year term. At the conclusion of that initial two-year term, the investors in the fund at that time shall elect five (5) representatives to the panel to serve terms as shall be established by the panel. The investors shall be entitled to one (1) vote for each one thousand dollars ($1,000) in capital contributed; and

(d) After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member.

(4) The panel shall be staffed by the finance and administration and commerce cabinets as directed by the secretary of finance and administration acting in his capacity as chairman of the panel.

(5) The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of this Act and on prudent financial and investment practices and standards.

(6) Any private financial entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel shall select an applicant to be the managing firm of the Commonwealth venture fund.

(7) The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees, and determine the policy for dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund. The panel shall not authorize any dividends to be paid from income received from investments made pursuant to subsection (1)(b) of Section 4 of this Act until such income has been reinvested in a small business for at least five (5) years.

(8) Administrative regulations necessary to carry out the purposes of this Act shall be promulgated and issued by the panel. The guidelines and regulations shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be promulgated.

SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Subject to Section 6 of this Act, a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1989, if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1988, 1989, 1990 and 1991. The total amount of credit that a taxpayer may receive under this Act shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (.4).

(2) The amount of credit that a taxpayer may receive under this Act for a particular taxable year shall not exceed the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that

taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1994. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this Act for any subsequent tax year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The total amount of credits allowed under this chapter shall not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under this Act shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) To receive the credit provided by this Act, a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the revenue cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the Commonwealth venture fund as to the qualified investment by the taxpayer.

(2) The managing firm of the Commonwealth venture fund shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment the following:

(a) The name, address, and employer identification number of the Commonwealth venture fund;

(b) The name, address and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the revenue cabinet shall be filed by the managing firm of the Commonwealth venture fund on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the managing firm of the Commonwealth venture fund and to the panel on or before that same date.

SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) If a qualified investment which is the basis for a credit under this chapter is redeemed by the fund or withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the revenue cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The reporting requirements from the managing firm to the panel, authorized in Section 4(7) of this Act, shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the governor and the legislative research commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

The Committee on Cities reported **HB 515** with Committee Amendment attached thereto, **SB 175** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 515. AN ACT relating to special ad valorem taxes by cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) In order that a city may provide funding for a specified project, program or service which cannot be adequately financed from general fund sources, any city may enact a special ad valorem tax for such a purpose subject to the following:

(a) Any such tax shall be enacted by ordinance as provided in KRS 83A.060. The ordinance shall identify and generally describe the program, project or service designated by the city and provide for the levy of an annual tax sufficient to defray the cost;

(b) Upon first reading of the ordinance which will enact a special ad valorem tax, the mayor shall direct that a copy of the ordinance be delivered to the county clerk;

(c) Upon receipt of the ordinance, the county clerk shall have prepared the question, which shall be "Are you in favor of the proposal entitled .? Yes No" The question shall be placed before the voters of the city at the next regular election that is held not earlier than ninety (90) days after receipt of the ordinance. The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as other voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal;

(d) The provisions of general election law shall apply to questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor and the certificate shall be entered upon the records of the city at the next regular meeting of the city legislative body;

(e) Upon passage of the question by a simple majority of those voting, the city may proceed with the final adoption of the ordinance levying the special ad valorem tax at a rate not to exceed that approved by the voters;

(2) Any special ad valorem tax imposed under the authority of this section shall be based upon the assessed valuation of all taxable property within the city.

(3) Any such special ad valorem tax shall be collected in the same manner as are other city ad valorem taxes. The revenues generated shall be in addition to other taxes and used solely for the specified project, program or service as designated by the ordinance enacting the tax. The proceeds of the tax shall be accounted for in a separate fund and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than provided by the ordinance enacting the special ad valorem tax.

(4) Any such special ad valorem tax shall be in addition to the tax rate levied and exclusive of the recall provisions in KRS 132.027.

The Committee Amendment No. 1 to **HB 515** is as follows:

Amend printed copy of **HB 515** on page 1, line 4, after the word "*service*", by deleting the words "*which cannot be*"; and

On page 1, line 5, by deleting the words "*adequately financed from general fund sources*".

SB 175, AN ACT relating to waterworks in counties containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 96.230 TO 96.310 IS CREATED TO READ AS FOLLOWS:

The board of waterworks may extend the waterwork corporation's facilities to provide water service to persons within and outside the city of the first class, including extensions into counties adjoining its county of origin. In extending service to persons not presently served within the city and county of the waterwork corporation's origin it may, but is not required to, make water line extensions recovering the cost thereof, KRS 96.539 notwithstanding, by assessment as provided in this section.

(1) The board of waterworks, acting on its own motion, may hold a public hearing to consider the extension of the waterwork corporation's facilities to provide water service to persons not currently served. Alternatively, in response to a petition signed by the majority of owners in an area not currently served by the waterwork corporation's service, which petition shall describe the area proposed to be served, the board of waterworks shall hold a public hearing to consider the benefits of extending its service to that area. Notice of the hearing shall be published in accordance with KRS Chapter 424. The board of waterworks shall designate a member of the board or an officer of the waterworks corporation to preside over the hearing. Following the public hearing, the board of waterworks shall determine whether it is feasible and beneficial to extend its service. If the board of waterworks determines that it is feasible and beneficial to extend its service, it shall refer the matter to the legislative body governing the area to which service shall be extended. If the legislative body determines that service should be extended, it shall pass an ordinance providing for the extension of service.

(2) The costs of such extension shall be apportioned by the ordinance against the property to which the

waterwork corporation's service will be made available by reason of such extension according to an equitable basis, considering the size, configuration and suitability as building sites of the lots or tracts to be served. Any of the following methods, or a combination thereof, may be used:

(a) The costs of such extension may be apportioned according to the number of square feet in any lot or tract abutting the publicly dedicated right-of-way in which the water line extension is located. The rate of apportionment shall be the same for each square foot in any lot or tract abutting a publicly dedicated right-of-way in which a water line extension is located, except the portions of any such lot or tract which lie a distance greater than a number of feet, as stated in the ordinance, from the water line extension, or which lie within a number of feet, as stated in the ordinance, from an existing water line located in a publicly dedicated right-of-way which also abuts such lot or tract, shall not be subject to assessment nor included in the calculations of the square footage of such lot or tract. The rate of apportionment shall be determined by dividing the costs of the extension by the assessable area of all lots or tracts abutting the publicly dedicated right-of-way in which a water line extension is located.

(b) The costs of such extension may be assessed against the lots or tracts according to the number of feet in the lot or tract fronting on the publicly dedicated right-of-way in which a water line extension is located. The rate of apportionment shall be the same for each such foot of frontage, and shall be determined by dividing the assessable costs of the water line extension by the total front footage of all lots or tracts fronting on the part of the publicly dedicated right-of-way in which a water line extension is located.

(c) The costs of such extension may be assessed against the lots or tracts abutting publicly dedicated rights-of-way in which water line extensions are located according to the value of any such lot or tract, without regard to any improvements on such lots or tracts, as determined as of the date of the most recent assessment by the property valuation administrator of the county in which such lots or tracts are located. The rate of apportionment shall be the same for each dollar of assessed value of lots or tracts abutting the parts of the publicly dedicated right-of-way in which the water line extension is located, except portions of such lots or tracts that are a distance greater than a number of feet, as stated in the ordinance, from the water line extension or that are within a number of feet, as stated in the ordinance, from an existing water line of the corporation located in a publicly dedicated right-of-way which also abuts such lot or tract shall not be assessed. The value of any lot or tract, portions of which are excluded from assessment, shall be determined by multiplying the value of the entire property by a ratio, the numerator of which is the number of square feet of the lot or tract to be assessed and the denominator of which is the number of square feet in the entire lot or tract. The rate of apportionment shall be determined by dividing the assessable costs of the water line extension by the total assessed value of all assessable lots or tracts abutting the parts of the publicly dedicated rights-of-way in which water line extensions are located.

(d) The costs of such extension may be assessed against the lots or tracts that may be served by the extension at a rate that is the same for each such lot or tract, where each such lot or tract is suitable for or limited to a single building site.

(e) If any lots or tracts abut on more than one (1) dedicated right-of-way in which a water line extension is made, such lots or tracts shall be assessed as if they abutted on only one (1) such right-of-way.

(f) In the event of a subdivision of a lot or tract assessed under this section, which subdivision requires a new water line extension, nothing herein shall prohibit the assessment of the newly subdivided lots or tracts, except those that abut a dedicated right-of-way with an existing water line.

(3) The waterwork corporation shall determine the percentage share of the total costs of the extension to be assessed against each lot or tract and shall notify each owner of such share to be assessed against his lot or tract. Any owner may, within thirty (30) days after receiving notice of the method of apportionment or the percentage share of the total costs to be assessed against his property, appeal the percentage share to be assessed against his property by filing a written appeal with the waterwork corporation setting forth the bases for the challenge. The president of the waterwork corporation shall appoint one (1) or more officers of the corporation to review such appeal, which review may include holding a hearing on the appeal. Any determination by the officer or officers that affects only the assessment of the aggrieved property owner shall not require further legislative action. If, however, as a result of the appeal, the hearing officer or officers recommend that the method of apportionment be changed, the matter shall be referred back to the legislative body that passed the ordinance provided for in subsection (1) of this section for consideration of an amendment thereto.

(4) The cost of property service connections from the water line extension to the property line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connection shall be fixed by regulation of the board of waterworks

based on its experience of costs for such work. No lot or tract owner shall be required to connect to the water line extension by reason of this section, but such failure to connect to the water line extension shall not exempt such lot or tract owner from its proportionate share of the costs as provided in subsection (2) of this section.

(5) All lots or tracts abutting the publicly dedicated right-of-way in which the water line extension is located shall be assessed as provided in the ordinance, except property dedicated to use for public roadways and property owned by cities of the first class and any joint agencies of cities of the first class and the counties in which such cities are located, if the extension is located in the city of the first class.

(6) (a) The actual construction work to provide the water line extension and property service connections shall be done by, or under the control of, the board of waterworks.

(b) The total cost of the water line extension, which is assessed against property served under subsection (2) of this section, shall include not only the actual construction costs and the costs of any easements required for the water line extension, but also costs of surveys, designs, plans, specifications, notices, inspection, project legal and administrative services, and administration. However, costs included in the assessment which are other than actual construction costs and costs of easements shall not exceed fifteen percent (15%) of the actual construction costs and the costs of any easements of the project.

(7) A lien superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the water line extension for apportionment as hereinafter provided and the interest due thereon, commencing with the date of issuance of the apportionment warrant.

(8) Upon completion of the water line extension, the board of waterworks shall issue all apportionment warrants against the properties assessed and shall immediately list the record owners thereof in alphabetical order upon a register kept for that purpose. Each apportionment warrant shall be payable to the waterworks corporation, or its assignee, in equal monthly installments, not exceeding two hundred forty (240) months, of principal and interest and shall be the obligation of the owners of and a lien upon the applicable lots or tracts until paid in full. The apportionment warrants may bear interest at an annual fixed rate as then determined by the board of waterworks pursuant to KRS 58.430. When the warrant has been paid in full, the holder thereof shall notify the board of waterworks, and it shall mark upon the register the fact of payment and release the lien. If any installment of principal of or interest on the warrant is not paid when due, the holder thereof may foreclose the lien securing the payment of the warrant in the same manner as mortgage liens are foreclosed.

(9) The lien shall exist from the date of the apportionment warrant. The board of waterworks shall cause such warrant or a notice thereof to be recorded in the office of the clerk of the county in which the affected property is located.

(10) After any water line extensions have been constructed in conformity with this section, the board of waterworks shall notify each affected property owner of the cost apportioned to his property at his address as shown at the time the notice is sent on the records of the property valuation administrator for the county in which the affected property is located. Failure of any property owner to receive this notice shall not affect the validity of the lien.

(11) If, by private agreement with the owners of lots or tracts, the waterworks corporation extends its water lines to those lots or tracts, and the private agreement provides for a lien on the lots or tracts to secure payment to the waterworks corporation of the cost of the extension, and a notice of such lien is recorded, that lien shall be superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements.

The Committee Substitute to **SB 175** is as follows:

SB 175, AN ACT relating to waterworks in counties containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 96.230 TO 96.310 IS CREATED TO READ AS FOLLOWS:

The board of waterworks may extend the waterwork corporation's facilities to provide water service to persons *within and outside the city of the first class, including extensions into counties adjoining its county of origin. In extending service to persons not presently served within the city and county of the waterwork corporation's origin it may, but is not required to, make water line extensions recovering the cost thereof, KRS 96.539 notwithstanding, by assessment as provided in this section.*

(1) The board of waterworks, acting on its own motion, may hold a public hearing to consider the extension of the waterwork corporation's facilities to provide water service to persons not currently served. Alternatively, in response to a petition signed by the majority of owners in an area not currently served by the waterwork corporation's service, which petition shall describe the area proposed to be served, the board of waterworks shall hold a public hearing to consider the benefits of extending its service to that area. Notice of the hearing shall be published in accordance with KRS Chapter 424. The board of waterworks shall designate a member of the board or an officer of the waterworks corporation to preside over the hearing. Following the public hearing, the board of waterworks shall determine whether it is feasible and beneficial to extend its service. If the board of waterworks determines that it is feasible and beneficial to extend its service, it shall refer the matter to the legislative body governing the area to which service shall be extended. If the legislative body determines that service should be extended, it shall pass an ordinance providing for the extension of service.

(2) The costs of such extension shall be apportioned by the ordinance against the property to which the waterwork corporation's service will be made available by reason of such extension according to an equitable basis, considering the size, configuration and suitability as building sites of the lots or tracts to be served. Any of the following methods, or a combination thereof, may be used:

(a) The costs of such extension may be apportioned according to the number of square feet in any lot or tract abutting the publicly dedicated right-of-way in which the water line extension is located. The rate of apportionment shall be the same for each square foot in any lot or tract abutting a publicly dedicated right-of-way in which a water line extension is located, except the portions of any such lot or tract which lie a distance greater than a number of feet, as stated in the ordinance, from the water line extension, or which lie within a number of feet, as stated in the ordinance, from an existing water line located in a publicly dedicated right-of-way which also abuts such lot or tract, shall not be subject to assessment nor included in the calculations of the square footage of such lot or tract. The rate of apportionment shall be determined by dividing the costs of the extension by the assessable area of all lots or tracts abutting the publicly dedicated right-of-way in which a water line extension is located.

(b) The costs of such extension may be assessed against the lots or tracts according to the number of feet in the lot or tract fronting on the publicly dedicated right-of-way in which a water line extension is located. The rate of apportionment shall be the same for each such foot of frontage, and shall be determined by dividing the assessable costs of the water line extension by the total front footage of all lots or tracts fronting on the part of the publicly dedicated right-of-way in which a water line extension is located.

(c) The costs of such extension may be assessed against the lots or tracts abutting publicly dedicated rights-of-way in which water line extensions are located according to the value of any such lot or tract, without regard to any improvements on such lots or tracts, as determined as of the date of the most recent assessment by the property valuation administrator of the county in which such lots or tracts are located. The rate of apportionment shall be the same for each dollar of assessed value of lots or tracts abutting the parts of the publicly dedicated right-of-way in which the water line extension is located, except portions of such lots or tracts that are a distance greater than a number of feet, as stated in the ordinance, from the water line extension or that are within a number of feet, as stated in the ordinance, from an existing water line of the corporation located in a publicly dedicated right-of-way which also abuts such lot or tract shall not be assessed. The value of any lot or tract, portions of which are excluded from assessment, shall be determined by multiplying the value of the entire property by a ratio, the numerator of which is the number of square feet of the lot or tract to be assessed and the denominator of which is the number of square feet in the entire lot or tract. The rate of apportionment shall be determined by dividing the assessable costs of the water line extension by the total assessed value of all assessable lots or tracts abutting the parts of the publicly dedicated rights-of-way in which water line extensions are located.

(d) The costs of such extension may be assessed against the lots or tracts that may be served by the extension at a rate that is the same for each such lot or tract, where each such lot or tract is suitable for or limited to a single building site.

(e) If any lots or tracts abut on more than one (1) dedicated right-of-way in which a water line extension is made, such lots or tracts shall be assessed as if they abutted on only one (1) such right-of-way.

(f) In the event of a subdivision of a lot or tract assessed under this section, which subdivision requires

a new water line extension, nothing herein shall prohibit the assessment of the newly subdivided lots or tracts, except those that abut a dedicated right-of-way with an existing water line.

(3) The waterwork corporation shall determine the percentage share of the total costs of the extension to be assessed against each lot or tract and shall notify each owner of such share to be assessed against his lot or tract. Any owner may, within thirty (30) days after receiving notice of the method of apportionment or the percentage share of the total costs to be assessed against his property, appeal the percentage share to be assessed against his property by filing a written appeal with the waterwork corporation setting forth the bases for the challenge. The president of the waterwork corporation shall appoint one (1) or more officers of the corporation to review such appeal, which review may include holding a hearing on the appeal. Any determination by the officer or officers that affects only the assessment of the aggrieved property owner shall not require further legislative action. If, however, as a result of the appeal, the hearing officer or officers recommend that the method of apportionment be changed, the matter shall be referred back to the legislative body that passed the ordinance provided for in subsection (1) of this section for consideration of an amendment thereto.

(4) The cost of property service connections from the water line extension to the property line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connection shall be fixed by regulation of the board of waterworks based on its experience of costs for such work. No lot or tract owner shall be required to connect to the water line extension by reason of this section, but such failure to connect to the water line extension shall not exempt such lot or tract owner from its proportionate share of the costs as provided in subsection (2) of this section.

(5) All lots or tracts abutting the publicly dedicated right-of-way in which the water line extension is located shall be assessed as provided in the ordinance, except property dedicated to use for public roadways and property owned by cities of the first class and any joint agencies of cities of the first class and the counties in which such cities are located, if the extension is located in the city of the first class.

(6) (a) The actual construction work to provide the water line extension and property service connections shall be done by, or under the control of, the board of waterworks.

(b) The total cost of the water line extension, which is assessed against property served under subsection (2) of this section, shall include not only the actual construction costs and the costs of any easements required for the water line extension, but also costs of surveys, designs, plans, specifications, notices, inspection, project legal and administrative services, and administration. However, costs included in the assessment which are other than actual construction costs and costs of easements shall not exceed fifteen percent (15%) of the actual construction costs and the costs of any easements of the project.

(7) A lien superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the water line extension for apportionment as hereinafter provided and the interest due thereon, commencing with the date of issuance of the apportionment warrant.

(8) Upon completion of the water line extension, the board of waterworks shall issue all apportionment warrants against the properties assessed and shall immediately list the record owners thereof in alphabetical order upon a register kept for that purpose. Each apportionment warrant shall be payable to the waterworks corporation, or its assignee, in equal monthly installments, not exceeding two hundred forty (240) months, of principal and interest and shall be the obligation of the owners of and a lien upon the applicable lots or tracts until paid in full. The apportionment warrants may bear interest at an annual fixed rate as then determined by the board of waterworks pursuant to KRS 58.430. When the warrant has been paid in full, the holder thereof shall notify the board of waterworks, and it shall mark upon the register the fact of payment and release the lien. If any installment of principal of or interest on the warrant is not paid when due, the holder thereof may foreclose the lien securing the payment of the warrant in the same manner as mortgage liens are foreclosed.

(9) The lien shall exist from the date of the apportionment warrant. The board of waterworks shall cause such warrant or a notice thereof to be recorded in the office of the clerk of the county in which the affected property is located.

(10) After any water line extensions have been constructed in conformity with this section, the board of waterworks shall notify each affected property owner of the cost apportioned to his property at his address as shown at the time the notice is sent on the records of the property valuation administrator for the county in which the affected property is located. Failure of any property owner to receive this notice shall not affect

the validity of the lien.

(11) If, by private agreement with the owners of lots or tracts, the waterworks corporation extends its water lines to those lots or tracts, and the private agreement provides for a lien on the lots or tracts to secure payment to the waterworks corporation of the cost of the extension, and a notice of such lien is recorded, that lien shall be superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements.

Section 2. KRS 96.250 is amended to read as follows:

The board of waterworks shall annually elect a president, treasurer, secretary and chief engineer, who shall hold their offices for one (1) year, or until their successors have been elected and qualified, and devote all their time to the duties of their respective offices. The member elected president shall have had at least five (5) years executive or major administrative experience in public utility operation or administration. The offices of secretary and treasurer may at the election of the board, be combined in one (1) person. No member of the board except the president shall receive a salary, but the board may allow reasonable compensation to each member other than the president for attendance upon the meetings of the board. The president shall be elected from the members of the board. The president, secretary and treasurer, or the secretary-treasurer if the offices are combined in one (1) person, shall each give bond, with approved surety, in an amount fixed by the board, payable to the board and conditioned that the makers will faithfully perform the duties of their several offices. The board may appoint such other employes as it deems necessary or proper and may fix the compensation of its officers and employes*, provided, however, the board shall not be bound in fixing the compensation or providing for retirement benefits by the provisions of KRS 78.530 and KRS 65.156.*

The Committee on State Government reported **HB 487**, **HB 489**, **HB 491**, **HB 612**, **HB 613**, **HB 662**, **HCR 92**, **SB 139** with Committee Amendment attached thereto, **SB 188**, **SB 214** and **SCR 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 487, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Reorganization Order 86-465, which creates the Division of Employe Safety and Health and the Division of Automated Services within the Department of Administrative Services of the Transportation Cabinet.

HB 489, AN ACT relating to the reorganization of the Kentucky Horse Park.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the Kentucky Horse Park by Executive Order 86-587 as follows:

(1) Creating the Division of Buildings and Grounds within the Department of the Kentucky Horse Park within the Tourism Cabinet. The Division shall be headed by a director appointed pursuant to KRS 12.050. The Division shall have the following organizational structure.

(a) The Planning Branch to be headed by a branch manager who shall report to the division director.

(b) The Maintenance Branch to be headed by a branch manager who shall report to the division director.

1. A Building Maintenance Section to be headed by a section supervisor who shall report to the branch manager.

2. A Grounds Maintenance Section to be headed by a section supervisor who shall report to the branch manager.

3. A Housekeeping Section to be headed by a section supervisor who shall report to the branch manager.

(2) The Division of Operations within the Kentucky Horse Park is hereby abolished. All personnel, records, files, equipment, and funds heretofore assigned to the Division of Operations are hereby transferred to the Division of Buildings and Grounds and shall be assigned to organizational entities as deemed appropriate by the Secretary of the Tourism Cabinet.

(3) The Division of Operational Services is hereby created and established within the Kentucky Horse Park within the Tourism Cabinet. The Division shall be headed by a director appointed pursuant to KRS 12.050. The Division shall have the following organizational structure:

(a) Museum Branch to be headed by a branch manager who shall report to the division director.

1. An Art/Exhibits section to be headed by a section supervisor who shall report to the branch manager.

2. A Tour Guides Section to be headed by a section supervisor who shall report to the branch manager.

(b) An Equine Operations Branch to be headed by a branch manager who shall report to the division director.

1. A Walking Farm Tour Section to be headed by a section supervisor who shall report to the branch manager.

a. A Pony Paddock Unit to be headed by a unit leader who shall report to the section supervisor.

b. A Hall of Champions Unit to be headed by a unit leader who shall report to the section supervisor.

2. A Horse Drawn Tour Section to be headed by a section supervisor who shall report to the branch manager.

3. A Kentucky Equine Institute Section to be headed by a section supervisor who shall report to the branch manager.

(c) A Visitors Information Center Section to be headed by a section supervisor who shall report to the division director.

1. A Cashier Unit to be headed by a unit leader who shall report to the section supervisor.

2. A Guest Relations Unit to be headed by a unit leader who shall report to the section supervisor.

(4) The Division of Administrative Services is hereby renamed the Division of Support Services. All personnel, records, files equipment, and funds heretofore assigned to the Division of Administrative Services shall be assigned to organizational entities as deem appropriate by the Secretary of the Tourism Cabinet. The Division of Support Services shall be headed by a director appointed pursuant to KRS 12.050. The division shall have the following organizational structure:

(a) Gift Shop Section to to be headed by a section supervisor who shall report to the division director.

(b) Restaurant Section to be headed by a section supervisor who shall report to the division director.

(c) Campground Section to be headed by a section supervisor who shall report to the division director.

(d) Purchasing Warehousing and Accounting Section to be headed by a section supervisor who shall report to the division director.

(e) Security Section to be headed by a section supervisor who shall report to the division director.

(5) The Administrative Services Branch is hereby established within the Department of the Kentucky Horse Park and shall be headed by a branch manager who shall report directly to the Executive Director

of the Department.

(6) The Marketing Section is hereby established within the Department of the Kentucky Horse Park and shall be headed by a section supervisor who shall report directly to the Executive Director of the Department.

HB 491. AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the department for health services within the cabinet for human resources affected by Executive Order 86-710 combining the division of state health planning and the division of community health resources development as one division named the division of health policy and resource development.

HB 612. AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.560 is amended to read as follows:

(1) There is hereby created the flood control advisory commission, which shall be composed of fifteen (15) members as follows:

(a) The governor shall appoint six (6) members: two (2) state legislators, one (1) from the senate and one (1) from the house of representatives; two (2) mayors; and two (2) county judges/executive; and

(b) The legislative research commission shall appoint nine (9) members, one (1) from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland.

(2) Each member shall serve a four (4) year term, except the first commission members appointed by the legislative research commission who shall serve terms as follows:

(a) Three (3) members shall serve for terms of two (2) years from the date of appointment;

(b) Three (3) members shall serve for terms of three (3) years from the date of appointment; and

(c) Three (3) members shall serve for terms of four (4) years from the date of appointment.

(3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant and the office shall be filled as provided by subsection (3) of this section.

(5) Two (2) of the commission members shall be elected by the commission to serve on the water resources authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.

(6) The commission shall annually elect one of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be nine (9) members, and a majority of the members present at a meeting may take action on any matter legally before it.

(7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.

(8) The commission shall employ an executive director, who shall be qualified on the basis of administrative ability in water resources management. The commission, on the advice of the executive director, shall employ additional staff, as required, who are knowledgeable in such areas as hydrology, geology, engineering, municipal planning, regional planning, economics, and secretarial science. The commission may engage, as needed, the professional services of individuals on a contractual basis.

(9) The commission shall be attached for administrative purposes to the *finance and administration cabinet* [~~office of the governor~~].

(10) The commission shall receive an annual appropriation from the general fund and shall prepare a line-item budget, which shall appear as a line item in the executive branch biennial budget recommendation and in the biennial joint budget resolution.

(11) The commission may receive private funds, federal grants, and discretionary funds from the natural resources and environmental protection cabinet.

(12) The commission shall issue rules and regulations as necessary to control internal procedures. The commission shall establish by regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

Section 2. The General Assembly confirms Executive Reorganization Order 86-614 to the extent it is not otherwise confirmed by this Act.

HB 613, AN ACT relating to the historic properties advisory commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.026 is amended to read as follows:

(1) As used in this section "state curator" means the director of the office of historic properties unit within the finance and administration cabinet with responsibilities for the preservation, restoration, acquisition and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments and other aesthetic materials that have been acquired, donated, loaned and otherwise obtained by the Commonwealth of Kentucky for the executive mansion, the old governor's mansion, the new state capitol and other historic properties under the control of the finance and administration cabinet.

(2) The historic properties advisory commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the executive mansion, old governor's mansion and new state capitol. The commission shall be attached to the finance and administration cabinet for administrative purposes.

(3) The commission shall consist of *fourteen (14)* [~~ten (10)~~] members. It is recommended that one (1) shall be the state curator, one (1) shall be the director of the Kentucky historical society, one (1) shall be a resident of Franklin county with experience in restoration, one (1) shall be the director of the executive mansion, one (1) shall be the director of the old governor's mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.

(4) The officers of the commission shall consist of a chairman, who shall be appointed by the governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the governor's family may serve as an honorary member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) The public members of the commission shall be appointed by the governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The director of the historical society and director of the executive mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of director of the historical society, director of the executive mansion and state curator shall serve terms concurrent with holding their respective offices.

(6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

(7) There is established in the state treasury a historic properties endowment trust fund which shall be administered by the executive director of the office of historic properties under the supervision of the secretary of the finance and administration cabinet. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the state treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the office of historic properties. The office of historic properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of such proceeds shall be used for purposes specified in KRS 11.027.

Section 2. Executive Order 87-349 is confirmed to the extent it is not otherwise confirmed by this Act.

HB 662, AN ACT relating to compensation of public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The compensation payable to the heads of the program cabinets, departments and major administrative bodies enumerated in KRS 12.020 shall be established as provided by law but in no event shall such compensation exceed the compensation payable to the governor under KRS 64.480. The compensation established for the heads of statutory departments and major administrative bodies enumerated in KRS 12.020 shall be subject to the provisions of KRS 64.640(2), any other statute to the contrary notwithstanding.

HCR 92. A CONCURRENT RESOLUTION petitioning the Congress of the United States to prohibit the reduction of private pension benefits by benefits received from state workers' compensation programs.

WHEREAS, thousands of disabled workers in the United States are being severely disadvantaged because of reductions in their private pension benefits for amounts received for workers' compensation; and

WHEREAS, the Employee Retirement Income Security Act of 1974 (ERISA) regulates most private pension plans in the United States; and

WHEREAS, ERISA does not specifically prohibit the reduction of benefits received from private pension plans by amounts received from state workers' compensation programs; and

WHEREAS, the Supreme Court of the United States has interpreted the ERISA provisions to allow reductions in private pension benefits by amounts received in workers' compensation benefits;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States is respectfully requested and hereby petitioned to enact legislation to specifically prohibit the reduction of private pension benefits by amounts received by disabled workers in workers' compensation benefits under state workers' compensation programs.

Section 2. That the clerk of the House transmit copies of this concurrent resolution to the Congress of the United States and to the House and Senate Leaders of each state legislature.

SB 139. AN ACT relating to personal property inventories by state agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.313 is amended to read as follows:

Each budget unit shall maintain a current inventory of *equipment having an original cost of three hundred dollars ($300) or more and* all supplies [~~and equipment~~]. Such inventory of supplies and equipment shall be available for examination by the finance and administration cabinet at all times. A copy of the inventory of each budget unit shall be filed with the finance and administration cabinet as of June 30 of each year.

The Committee Amendment No. 1 to **SB 139** is as follows:

Amend printed copy of **SB 139** on page 1, line 3, after the word "*of*" by inserting "*one hundred*" and deleting "*three hundred*"; and

On page 1, line 4 after "*dollars*" by inserting "*($100)*" and deleting "*($300)*".

SB 188, AN ACT relating to the Kentucky law enforcement council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.315 is amended to read as follows:

The Kentucky law enforcement council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The attorney general of Kentucky, the commissioner of the bureau of state police, the dean of the school of police administration of the university of Louisville, the dean of the school of law enforcement of eastern Kentucky university, the president of the Kentucky peace officers association, the president of the Kentucky association of chiefs of police, and the Kentucky president of the fraternal order of police, shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the federal bureau of investigation shall serve on the council in an advisory capacity only without voting privileges. *Each ex officio member may designate in writing a person to represent him and vote on his behalf.*

(2) Nine (9) members shall be appointed by the governor for terms of four (4) years from the following classifications: a city manager or mayor, one (1) Kentucky sheriff, a member of the Kentucky state bar association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one of the aforementioned groups or the holder of more than one of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity the governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

SB 214, AN ACT relating to reorganization of the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly hereby confirms executive order 86-641 relating to reorganization of the public service commission, which establishes the following divisions within the commission:

(1) The division of general counsel;

(2) The division of engineering and services;

(3) The division of rates and tariffs;

(4) The division of research and analysis; and

(5) The division of administrative services.

SCR 45, A CONCURRENT RESOLUTION establishing an official Commonwealth of Kentucky Old Time Fiddlers' Convention and Championship thereof.

WHEREAS, there was not in existence an official Commonwealth of Kentucky Old Time Fiddlers' Championship prior to the creation of this contest in 1975; and

WHEREAS, 1976 Acts Chapter 25 established an official Commonwealth of Kentucky Old Time Fiddlers' Convention and Championship conducted by the Grayson County Teen Action Club; and

WHEREAS, the Grayson County Teen Action Club no longer conducts the Old Time Fiddlers' Convention; and

WHEREAS, the official Kentucky State Championship Old Time Fiddlers' Contest, Inc. has sponsored a convention wherein Old Time Fiddlers and musicians in other categories have competed and been judged as to their ability; and

WHEREAS, this convention has been and will be an annual affair to be held each 3rd weekend in July in Grayson County, Kentucky; and

WHEREAS, it is desirable that an Old Time Fiddlers' Championship remain in existence for the Commonwealth of Kentucky; and

WHEREAS, the Old Time Fiddlers' Convention held by the Official Kentucky State Championship Old Time Fiddlers' Contest, Inc., sponsored by the Leitchfield Rotary Club, devotes all its proceeds to charitable causes;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Old Time Fiddlers' Convention conducted annually by the Official Kentucky State Championship Old Time Fiddlers' Contest, Inc., sponsored by the Leitchfield Rotary Club is the Official Commonwealth of Kentucky Old Time Fiddlers' Convention and the winners shall be the Commonwealth of Kentucky Old Time String Music and Bluegrass Music Champions in the categories listed below as they have been designated since 1975:

1. Beginning Fiddler - age 15 and under
2. Junior Fiddler - age 35 and under
3. Intermediate Fiddler - age 36 to 59
4. Senior Fiddler - age 60 and over
5. Fiddle-Off Grand Champion - for Governor's Cup
6. Bluegrass Band
7. Old Time String Band

8. Old Time Banjo

9. Bluegrass Banjo

10. Flat Top Guitar

11. Harmonica

12. Mandolin

13. Jig Dancing

14. Back-up Musician of the Year

Section 2. That the Clerk is directed to forward a copy of this resolution to the Leitchfield Rotary Club and the fiscal court of Grayson County.

The Committee on Business Organizations and Professions reported **HB 570** with Committee Amendment attached thereto, **HB 593**, and **HB 633** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 570, AN ACT relating to civil liability for consumption of alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds and declares that the consumption of intoxicating beverages, rather than the serving, furnishing or sale of such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or another person.

(2) Any other law to the contrary, notwithstanding, no social host who serves or furnishes any intoxicating beverage to a person over the age for the lawful purchase thereof shall be liable to such person or to any other person or to the estate, successors, or survivors of either for any injury suffered off the premises, including but not limited to wrongful death or property damage, because of the intoxication of the person to whom the intoxicating beverages were served or furnished.

(3) Any other law to the contrary notwithstanding, no social host who owns, leases, or otherwise lawfully occupies premises on which, in his absence and without his consent, intoxicating beverages are consumed by a person shall be liable to such person or to any other person or to the estate, successors, or survivors of either for any injury suffered off the premises, including but not limited to wrongful death or property damage, because of the intoxication of the person who consumed the intoxicating beverages.

(4) Any other law to the contrary notwithstanding, no person holding a permit under KRS 243.010, 243.030, 243.040, 243.050, nor any agent, servant, or employe of such a person, who sells or serves intoxicating beverages to a person over the age for the lawful purchase thereof, shall be liable to such person or to any other person or to the estate, successors, or survivors of either for any injury suffered off the premises including but not limited to wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served.

(5) The intoxicated person and the insurer of the intoxicated person shall be primarily liable with respect to injuries suffered by third persons.

(6) The limitation of liability provided by this section shall not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol.

The Committee Amendment No. 1 to **HB 570** is as follows:

Amend printed copy of **HB 570** on page 2, line 26, after the word "*alcohol.*" by adding the following:

(7) This Act shall not apply to civil actions filed prior to the effective date of this Act.

HB 593, AN ACT relating to unauthorized sports agency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 518 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unauthorized sports agency who directly or indirectly recruits or solicits a student athlete to enter into an agent contract, professional sports services contract, or other sports related contract, or who procures, offers, promises or attempts to obtain employment for a student athlete with a professional sports team or as a professional athlete before the student athlete's eligibility for collegiate athletics expires.

(2) Unauthorized sports agency is a Class D felony.

Section 2. KRS 518.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Event" means a sports contest or other public performance to which the general public is not admitted without consideration.

(3) "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals that is viewed by the public.

(4) "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest.

(5) "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.

(6) "Public performance" means any form of entertainment other than a sports contest involving machines, persons, animals or objects that is viewed by the public.

(7) "Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one (1) or more professional sports teams for the employment of the person as a professional athlete.

(8) "Professional sport services contract" means a contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sport team or as a professional athlete.

(9) "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program.

HB 633, AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.430 is amended to read as follows:

(1) There is hereby created an independent agency of the state government to be known as the Kentucky

board of barbering, which shall have complete supervision over the administration of the provisions of this chapter relating to barbers, barbering, barber shops, barber schools, the teaching of barbering and barber apprenticeship.

(2) The Kentucky board of barbering hereinafter referred to as the barber board or board shall be composed of five (5), appointed by the governor. *Four (4) members shall be licensed barbers and shall have practiced barbering for at least five (5) years. A fifth member shall be a citizen at large who is not associated in the practice or business regulated* [~~At least one (1) member shall be a master barber licensed to practice barbering in this state who is a member of a nationally recognized professional organization of master barbers and who is not otherwise a member of a union of barbers, a second and different member shall be a barber licensed to practice barbering in this state who is a member of an organized labor union of barbers, a third and different member shall be a barber who is not a member of a union or labor organization of barbers and a fourth and different member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained~~].

(3) Upon the expiration of the term of any member, the appointment shall be for a term of two (2) years.

(4) The governor shall not remove any member of the barber board except for cause.

(5) The barber board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice-chairman, and a third to serve as secretary.

(6) Three (3) members shall constitute a quorum for the transaction of business.

(7) In addition to the other qualifications specified in this section, barber members of the barber board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky and must have engaged in the practice of barbering in this state for a period of at least five (5) years.

(8) No member of the barber board shall be financially interested in, or have any financial connection with any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology or manicuring for monetary considerations.

(9) Each member of the barber board shall receive a compensation of *fifty dollars ($50)* [~~$35.00~~] per day for each day of attendance at meeting of the board, and shall be reimbursed for necessary traveling expenses.

(10) The board shall hold such meetings at such places in the state and at such times as are deemed necessary by the board to discharge its duties.

Section 2. KRS 317.460 is amended to read as follows:

(1) The barber board shall hold hearings upon the request of any person directly affected by the board's decision to refuse a license; [~~or to~~] deny or revoke a license*; or suspend or place a license on probation. The board shall give the licensee twenty (20) days' written notice in advance of the revocation, refusal to renew, suspension or probation,* [~~and no license renewal shall be denied nor shall a license be revoked unless the board in advance shall have given the licensee twenty (20) days written notice of the revocation or refusal to renew~~] stating the grounds therefor.

(2) Hearings conducted by the board shall afford reasonable opportunity for the complainant to be present and represented by counsel, to examine and to cross-examine any witness and produce any competent and relevant proof though the board need not follow strict rules of evidence in the conduct of such hearings.

(3) Rulings of the barber board as a result of any hearing may be appealed to the Franklin Circuit Court by filing with said court within thirty (30) days from date of entry of the order a certified copy of the ruling or order of the board. The court shall not set aside any ruling or order of the barber board if there was any competent evidence before the board to justify the ruling or order.

(4) The board is authorized to issue subpoenas for the attendance of witnesses and the production of such records and documents as may be reasonably necessary in the conduct of any hearing.

Section 3. KRS 317.590 is amended to read as follows:

(1) *The board may refuse to issue or renew a license or may revoke or suspend or place in probation such licenses as are issued upon proper showing of the applicant's or licensee's* [~~Licenses shall not be issued or renewed and such licenses as are issued shall be revoked upon proper showing of applicant's or licensee's~~]:

(a) Gross malpractice or incompetence; [~~or~~]

(b) Mental or physical health that would endanger public health or safety*;*

(c) Failure to comply with regulations or rules of the board;

(d) False or deceptive advertising;

(e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;

(f) Immoral or unprofessional conduct; or

(g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.

(2) The licensee may have the alternative, subject to the approval of the board, to pay, in lieu of part or all of the days of the suspension period, a payment of not less than twenty-five dollars ($25) per day and not to exceed five hundred dollars ($500) total.

(3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of each licensee.

[~~(2) A license may be refused or revoked by the board for the following reasons:~~

~~(a) Failure to comply with regulations or rules of the board;~~

~~(b) False or deceptive advertising;~~

~~(c) Practicing in an unlicensed shop or in a shop knowing that such shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;~~

~~(d) Immoral or unprofessional conduct;~~

~~(e) Teaching in an unlicensed school or in a school knowing that such school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.~~]

The Committee Substitute to **HB 633** is as follows:

HB 633. AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.430 is amended to read as follows:

(1) There is hereby created an independent agency of the state government to be known as the Kentucky board of barbering, which shall have complete supervision over the administration of the provisions of this

chapter relating to barbers, barbering, barber shops, barber schools, the teaching of barbering and barber apprenticeship.

(2) The Kentucky board of barbering hereinafter referred to as the barber board or board shall be composed of five (5), appointed by the governor. At least one (1) member shall be a master barber licensed to practice barbering in this state who is a member of a nationally recognized professional organization of master barbers and who is not otherwise a member of a union of barbers, a second and different member shall be a barber licensed to practice barbering in this state who is a member of an organized labor union of barbers, a third and different member shall be a barber who is not a member of a union or labor organization of barbers and a fourth and different member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained.

(3) Upon the expiration of the term of any member, the appointment shall be for a term of two (2) years.

(4) The governor shall not remove any member of the barber board except for cause.

(5) The barber board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice-chairman, and a third to serve as secretary.

(6) Three (3) members shall constitute a quorum for the transaction of business.

(7) In addition to the other qualifications specified in this section, barber members of the barber board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky and must have engaged in the practice of barbering in this state for a period of at least five (5) years.

(8) No member of the barber board shall be financially interested in, or have any financial connection with any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology or manicuring for monetary considerations.

(9) Each member of the barber board shall receive a compensation of *fifty dollars ($50)* [~~$35.00~~] per day for each day of attendance at meeting of the board, and shall be reimbursed for necessary traveling expenses.

(10) The board shall hold such meetings at such places in the state and at such times as are deemed necessary by the board to discharge its duties.

Section 2. KRS 317.460 is amended to read as follows:

(1) The barber board shall hold hearings upon the request of any person directly affected by the board's decision to refuse a license*;* [~~or to~~] deny or revoke a license*; or suspend or place a license on probation. The board shall give the licensee twenty (20) days' written notice in advance of the revocation, refusal to renew, suspension or probation,* [~~and no license renewal shall be denied nor shall a license be revoked unless the board in advance shall have given the licensee twenty (20) days written notice of the revocation or refusal to renew~~] stating the grounds therefor.

(2) Hearings conducted by the board shall afford reasonable opportunity for the complainant to be present and represented by counsel, to examine and to cross-examine any witness and produce any competent and relevant proof though the board need not follow strict rules of evidence in the conduct of such hearings.

(3) Rulings of the barber board as a result of any hearing may be appealed to the Franklin Circuit Court by filing with said court within thirty (30) days from date of entry of the order a certified copy of the ruling or order of the board. The court shall not set aside any ruling or order of the barber board if there was any competent evidence before the board to justify the ruling or order.

(4) The board is authorized to issue subpoenas for the attendance of witnesses and the production of such records and documents as may be reasonably necessary in the conduct of any hearing.

Section 3. KRS 317.590 is amended to read as follows:

(1) *The board may refuse to issue or renew a license or may revoke or suspend or place in probation such licenses as are issued upon proper showing of the applicant's or licensee's* [~~Licenses shall not be issued or renewed and such licenses as are issued shall be revoked upon proper showing of applicant's or licensee's~~]:

(a) Gross malpractice or incompetence; [~~or~~]

(b) Mental or physical health that would endanger public health or safety*;*

(c) Failure to comply with regulations or rules of the board;

(d) False or deceptive advertising;

(e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;

(f) Unprofessional conduct; or

(g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.

(2) The licensee may have the alternative, subject to the approval of the board, to pay, in lieu of part or all of the days of the suspension period, a payment of not less than twenty-five dollars ($25) per day and not to exceed five hundred dollars ($500) total.

(3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of each licensee.

[~~(2) A license may be refused or revoked by the board for the following reasons:~~

~~(a) Failure to comply with regulations or rules of the board;~~

~~(b) False or deceptive advertising;~~

~~(c) Practicing in an unlicensed shop or in a shop knowing that such shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;~~

~~(d) Immoral or unprofessional conduct;~~

~~(e) Teaching in an unlicensed school or in a school knowing that such school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.~~]

The Committee on Business Organizations and Professions reported **HB 670**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 670. AN ACT relating to landscape architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323A.060 is amended to read as follows:

(1) Fees for the following services shall be established by *regulation* [~~the rules~~] of the board[~~; and in no case shall they exceed the following schedule~~]:

(a) For an examination*;*[. . . . . ~~$100.00~~]

(b) For the original license certificate*;*[. . . . . ~~$ 50.00~~]

(c) For the restoration of an expired license*; and*[. . . . . ~~$125.00~~]

(d) For a license to a landscape architect satisfactorily licensed in another state.[. . . . . ~~$ 75.00~~]

(2) The proper fee as *established by regulation* [~~prescribed in subsection (1) of this section~~] shall be paid to the board, and shall not be refunded in whole or in part.

Section 2. KRS 323A.070 is amended to read as follows:

Any applicant who fails to pass an examination may, by paying an additional fee *to be established by regulation of the board*[~~, not to exceed thirty-five dollars ($35) per part failed, and not to exceed one hundred dollars ($100) for repetition of the whole examination~~], enter any subsequent examination held within three (3) years from the date of examination he failed to pass.

Section 3. KRS 323A.100 is amended to read as follows:

(1) [~~(a)~~] All landscape architects desiring to continue practice shall annually, prior to July 1, secure from the board a renewal certificate upon the payment of a fee *to be established by regulation of the board. The failure of any licensee to renew his license annually in June shall not deprive him of the right of renewal, but the fee to be paid for the renewal of a license after June shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. But the maximum fee for delayed renewal shall not exceed twice the normal renewal fee for each year license is not renewed* [~~of not more than $35~~]. Not later than May 1 of each year the board will notify by mail all landscape architects of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the landscape architect shall furnish the information required by such form.

(2)[~~(b)~~] Failure of any landscape architect to secure his renewal certificate within sixty days after July 1 shall constitute sufficient cause for the board to revoke his license.

(3)[~~(c)~~] The board may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees, *and may require that the person seeking restoration return to the status of a new applicant.*

[~~(2) A licensed landscape architect may voluntarily surrender his license to the board and thereby be relieved of the annual renewal fee. After surrendering his license, he shall not be known as a licensed landscape architect and shall desist from the practice thereof. Within five years from the time of surrender of the license he may again qualify for a license without examination by the payment of the required fee. If five years thereafter have elapsed, he shall return to the status of a new applicant.~~]

Section 4. KRS 323A.190 is amended to read as follows:

Each member of the board shall receive an amount *to be established by regulation of the board* [~~not to exceed $50~~] for each day or part thereof spent in the performance of his official duties, including time spent in necessary travel, and in addition, shall be reimbursed for all proper traveling and incidental expenses incurred in connection with said duties.

Section 5. KRS 323A.200 is amended to read as follows:

A quorum of the board shall consist of at least *three (3)* [~~two (2)~~] members. The concurring votes of *three (3)* [~~two (2)~~] members shall be considered as the action of the board, except in the case of revoking a license, in which case, the unanimous vote of the board shall be required.

The Committee Amendment No. 1 to **HB 670** is as follows:

Amend printed copy of **HB 670** by adding on page 4, after line 11, the following:

"Section 6. Whereas, it will not be possible for the board to collect enough revenue to carry its duties, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Committee Title Amendment to **HB 670** is as follows:

Amend printed copy of **HB 670** by changing the title to read:

"AN ACT relating to landscape architects and declaring an emergency."

The Committee on Health and Welfare reported **HB 447, HB 501** with Committee Amendment attached thereto, **HB 527, HB 530** with Committee Amendment attached thereto, **HB 573** with Committee Substitute attached thereto, and **HB 592** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 447. AN ACT relating to disabled adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

(1) "Cabinet" means the cabinet for human resources.

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by a severely physically disabled adult to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;

(b) Dressing;

(c) Housecleaning and laundry;

(d) Preparation and consumption of food;

(e) Moving in and out of bed;

(f) Routine bathing;

(g) Ambulation; and

(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically handicapped adults to enable them to live as independently as possible and a majority of whose board is consumers of such services.

(5) "Secretary" means the secretary of the cabinet for human resources.

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent

or temporary, recurring functional loss of two (2) or more limbs. *In addition, the person may be developmentally disabled as defined in KRS 347.020.*

Section 2. KRS 205.905 is amended to read as follows:

(1) The cabinet shall provide a subsidy for personal care assistance services to any adult who:

(a) Has a severe physical disability;

(b) Needs not less than fourteen (14) hours a week of personal care assistance services as defined by the secretary or needs an attendant at night, which services are necessary to prevent or remove the adult from inappropriate placement in an institutional setting; and

(c) Qualifies under KRS 205.910.

(2) The adult shall be responsible for *or shall be assisted, if necessary, in:*

(a) Recruiting, hiring, firing and supervising the persons who provide personal care assistance services; and

(b) Obtaining an evaluation of his eligibility for personal care services from a qualified agency or organization which employs evaluation teams to:

1. Determine the eligibility of the adult for personal care assistance services;

2. Reevaluate the adult at least biennially to determine the adult's continuing need for services; and

3. Report its findings and recommendations to the cabinet.

(3) The cabinet shall follow the recommendations of the evaluation team or shall give notice to the adult within twenty (20) days of receipt of the recommendations of its reasons for not acting on the team's recommendations.

(4) The cabinet may maintain a list of qualified agencies and organizations.

HB 501, AN ACT relating to handicapped children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the Kentucky commission for handicapped children and the Kentucky crippled children's program and the Kentucky program of health services to children with special health care needs.

(2) "Recipient" means any person who has received medical services provided by the commission or who has received medical services paid for on his behalf by the commission.

(3) "Medical services" means medical or medically related institutional or noninstitutional services which are provided to a recipient or paid for by the commission on behalf of a recipient.

(4) "Third-party coverage" means any public or private party who is liable to provide medical services or to make medical services benefit payments to a recipient or other provider for medical services provided to a recipient under the terms of any contract, health insurance policy, health insurance plan, settlement or award.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

Third-party coverage for medical services provided by the commission to clients of the commission shall be considered primary coverage in all instances. The commission's liability for coverage for medical services to its clients shall be considered residual to third-party coverage in all instances.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for or recipient of medical services provided by or paid for by the commission shall inform the commission of any rights that the applicant or recipient has to third-party payments for medical services at the time of initial application for services or at any time thereafter when such third-party payment should become available. The commission shall automatically be subrogated to any rights the recipient has to third-party payment for medical services.

(2) The commission shall recover the full cost of medical services provided to a recipient or paid for on his behalf directly from:

(a) Any third party liable to make a medical benefit payment to the provider of the recipient's medical services or to the recipient under the terms and provisions of any contract, health insurance policy, health insurance plan, settlement, or award, or;

(b) The recipient, if he has received third-party payment for medical services that have been provided to him, or;

(c) The provider of the recipient's medical services if third-party payment for medical services has been recovered by the provider.

(3) A recipient of medical services provided by the commission or paid for by the commission shall be deemed to have made an assignment to the commission of any right such recipient has to any payment for such medical services from a third party.

(4) A recipient of medical services provided by the commission or paid for by the commission shall be deemed to have provided the commission the authority to release medical information with respect to such medical services for the purpose of obtaining reimbursement from a third party.

(5) The commission may, in order to enforce its subrogation rights under this section, institute, intervene in, or join any legal proceeding against any third party against whom recovery rights arise. No action taken by the commission shall operate to deny the recipient recovery for that portion of his damage not subrogated to the commission and no action of the recipient shall prejudice the subrogation rights of the commission.

(6) When the commission provides, pays for or becomes liable for the medical services, and their costs, of a recipient, it shall have a lien for the full amount of the cost of such medical services upon any and all causes of action which accrue to the recipient or to his legal representatives, as a result of sickness, injury, disease, disability, or death due to the liability of a third party which necessitated the medical service. The commission shall have one (1) calendar year from the date when the last item of medical services relative to a specific accident or spell of illness was provided or paid for in which to file its verified lien statement. The statement shall be filed with the clerk of the circuit court in the recipient's county residence. The verified lien statement shall contain the name and address of the recipient of medical services; the date of the injury or accident; the name and address of the vendor or vendors furnishing medical services to the recipient; the date of the medical services; the amount claimed to be due the commission for the medical services provided or paid for; and, to the best knowledge of the commission, the names and addresses of all persons or corporations claimed to be liable for damages arising from the injuries. The commission's failure to file a lien shall not affect the commission's subrogation rights provided for in subsection (1) of this section.

(7) In recovering any payment in accordance with this action, the commission is authorized to make appropriate settlements.

The Committee Amendment No. 1 to **HB 501** is as follows:

Amend printed copy of **HB 501** on page 2, line 23,

By deleting the words "*or paid for*" and inserting in lieu thereof the words "*and shall recover any payments made for medical services*".

HB 527, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.035 is amended to read as follows:

Except as otherwise provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a [~~duly licensed~~] medical or osteopathic physician *duly licensed in any state* stating that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and rubella in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036 and 214.990 and the regulations of the secretary for human resources. The governing body of private and public schools shall enforce the provisions of this section.

HB 530, AN ACT relating to the public consumption of goods from the socialist republic of Romania.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly of the Commonwealth of Kentucky deplores the campaign by the government of the socialist republic of Romania to harass, intimidate, and terrorize religious believers and to destroy church buildings. The general assembly does not wish to support the government or the economy of such a nation and has great concern about the safety of any consumer goods originating from a nation with so little regard for human rights. The general assembly further has empowered in KRS Chapter 211 the cabinet for human resources with the duty and responsibility of safeguarding the health of all of its citizens, including regulation of any food or product offered for sale within the Commonwealth. Therefore, having judged the policies and products of the socialist republic of Romania to be questionable, such products shall be presumed to be in violation of the standards administered by the cabinet. This section hereby requires the cabinet to specifically inspect all Romanian goods discovered by its inspection procedures. The cabinet for human resources is hereby directed to seize and embargo any and all such goods violating the standards of the division of radiation and product safety, the division of food and sanitation and any other existing function areas within the cabinet.

(2) The manufacturer, distributor, or importer of such Romanian product shall be requested by the cabinet to initiate a voluntary recall of the product from those wholesale and retail establishments to which the product was distributed. The responsible manufacturer, distributor, or importer shall provide the cabinet with a copy of the recall with a listing of all establishments contacted.

The Committee Amendment No. 1 to **HB 530** is as follows:

Amend printed copy of **HB 530** on page 1, line 18,

By deleting the words "*presumed to be in*" and inserting in lieu thereof the words "*scrutinized for possible*"

on page 2, line 2, by deleting the words "*seize and embargo*" and inserting in lieu thereof the following words: "*initiate appropriate regulatory action for any Romanian goods determined to be in violation of*"

and on page 2, line 3, by deleting the following words: "*any and all such goods violating*"

HB 573, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order, or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V.

(3) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trade mark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(4) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(5) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(6) "Drug" means (a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) substances intended for use in the diagnosis, care, mitigation, treatment or prevention of disease in man or animals; (c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (d) substances intended for use as a component of any article specified in this subsection. It does not include devices or their components, parts, or accessories.

(7) *"Drug dependent person" means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.*

(8) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(9)[~~(8)~~] "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale, or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(10)[~~(9)~~] "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture,

salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(11)[~~(10)~~] "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (10) (a) of this section, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(12)[~~(11)~~] "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3 - methoxy - n - methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(13)[~~(12)~~] "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(14)[~~(13)~~] "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(15)[~~(14)~~] "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(16)[~~(15)~~] "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(17)[~~(16)~~] "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(18)[~~(17)~~] "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(19)[~~(18)~~] "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(20)[~~(19)~~] "Traffic" means to manufacture, sell, transfer or possess with intent to sell a controlled substance.

(21)[~~(20)~~] "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(22)[~~(21)~~] "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to animal owned by him or by a member of his household.

Section 2. KRS 218A.020 is amended to read as follows:

(1) The cabinet for human resources shall administer this chapter and may by regulation add substances

to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the cabinet for human resources may consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration, and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(2) After considering the factors enumerated in subsection (1) the cabinet for human resources may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the cabinet for human resources, the cabinet for human resources may similarly control the substance under this chapter by regulation.

[~~(4) The cabinet for human resources shall exclude any non-narcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).~~]

Section 3. KRS 218A.030 is amended to read as follows:

(1) The controlled substances listed or to be listed in the schedules provided for in this chapter are included by whatever official, common, usual, chemical, or trade name designated.

(2) Any compound, mixture or preparation containing any depressant or stimulant substance exempt from the provisions of the federal controlled substance law as set forth in the April 1, 1986, edition of the Code of Federal Regulations, Title 21, Food and Drugs, Chapter II - Drug Enforcement Administration, Department of Justice, Section 1308.32, Excepted Prescription Drugs, are exempt from the provisions of this chapter.

(3) Properly labeled over the counter preparations containing not more than one-eighth (1/8) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with theophylline two (2) grains or ephedrine three-eighths (3/8) grain, or both, or their salts are exempt from the provisions of this chapter.

(4) Properly labeled over the counter suppository preparations containing not more than one-fourth (1/4) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with theophylline two (2) grains or ephedrine three-eights (3/8) grain, or both, or their salts are exempt from the provisions of this chapter.

Section 4. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl - alpha - methylfentanyl, N - [l - (1 - methyl - 2 - phenyl)ethyl - 4 - piperidyl] - N - phenylacetamide;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha - Methylfentanyl, N - [l - (alpha - methyl - beta - phenyl)ethyl - 4 - piperidyl] proprionanilide;

(h) Alpha - methylthiofentanyl, N - [l - (l - methyl - 2 - (2 - thienyl)ethyl - 4 - piperidyl] N - phenylpropanamide;

(i) Benzethidine;

(j) Benzylfentanyl, N - [l - benzyl - 4 - piperidyl] - N - phenylpropanamide;

(k) Betacetylmethadol;

(l) Beta - hydrozyfentanyl, N - [1 - (2 - hydroxy - 2 - phenyl)ethyl - 4 - piperdyl] - N - phenylpropanamide;

(m) Beta - hydroxy - 3 - methylfentanyl, N - [3 - methyl - 1 - (2 - hydroxy - 2 - phenyl)ethyl - 4 - piperidyl] - N - phenylpropanamide;

(n) Betameprodine;

(o) Betamethadol;

(p) Betaprodine;

(q) Clonitazene;

(r) Dextromoramide; [~~Dextrorphan;~~]

(s) Diampromide;

(t) Diethylthiambutene;

(u) Difenoxin;

(v) Dimenoxadol;

(w) Dimepheptanol;

(x) Dimethylthiambutene;

(y) *Dioxaphetyl butyrate* [~~Dioxaphetylebutyrate~~];

(z) Dipipanone;

(aa) Ethylmethylthiambutene;

(bb) Etonitazene;

(cc) Etoxeridine;

(dd) Furethidine;

(ee) *Hydroxypethidine* [~~Hydroxpethidine~~];

(ff) Ketobemidone;

(gg) Levomoramide;

(hh) Levophenacylmorphan;

(ii) 3 - methylfentanyl, N - [3 - methyl - 1 - (2 - phenylethyl) - 4 - piperidyl] - N - phenylpropanamide;

(jj) 3 - methylthiofentanyl, N - [3 - methyl - 1 - (2 - (2 - thienyl)ethyl - 4 - piperadyl] - N - phenylpropanamide;

(kk) Morpheridine;

(ll) Noracymethadol;

(mm) Norlevorphanol;

(nn) Normethadone;

(oo) Norpipanone;

(pp) Para-fluorofentanyl;

(qq) Phenadoxone;

(rr) Phenampromide;

(ss) Phenomorphan;

(tt) Phenoperidine;

(uu) Piritramide;

(vv) Propheptazine;

(ww) Properidine;

(xx) Propiram;

(yy) Racemoramide;

(zz) Thenylfentanyl, N - [1 - (2 - thienyl) methyl - 4 - piperdyl] - N - phenylpropanamide;

(aaa) Thiofentanyl, N - [1 - (2 - (2 - thienyl)ethyl - 4 - piperdyl] - N - phenylpropanamide;

(bbb) Tilidine;

(ccc) Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine - N - Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine *(except hydrochloride salt)*;

(k) Heroin;

(l) Hydromorphinol;

(m) 1 - methyl - 4 - phenyl - 4 - propionoxypiperidine (MPPP);

(n) Methyldesorphine;

(o) Methyldihydromorphine;

(p) Morphine methylbromide;

(q) Morphine methylsulfonate;

(r) Morphine - N - Oxide;

(s) Myrophine;

(t) Nicocodeine;

(u) Nicomorphine;

(v) Normorphine;

(w) 1 - (2 - phenylethyl) - 4 - phenyl - 4 - acetyloxyperidine (PEPAP);

(x) Phoclodine;

(y) Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4 - bromo - 2, 5 - dimethoxy - amphetamine;

(b) 2, 5 - dimethoxyamphetamine (2, 5 DMA);

(c) 4 - methoxyamphetamine (PMA);

(d) 5 - methoxy - 3, 4 - methylenedioxy - amphetamine [~~3, 4 - methylenedioxy amphetamine~~];

(e) 4 - methyl - 2, 5 - dimethoxy - amphetamine (DOM, STP) [~~5 - methoxy - 3, 4 - methylenedioxy amphetamine~~];

(f) 3, 4 - methylenedioxy amphetamine;

(g) 3.4, 5 - trimethoxy amphetamine;

(h) Bufotenine;

(i) Diethyltryptamine;

(j) Dimethyltryptamine; [~~4 - methyl - 2, 5 - dimethoxylamphetamine;~~]

(k) Ethylamine analog of phencyclidine (N - ethyl - 1 - phenylcyclohexylamine, cyclohexamine, PCE);

(l) Hashish;

(m) Ibogaine;

(n) Lysergic acid diethylamide;

(o) Marijuana;

(p) Mescaline;

(q) Parahexyl (Synhexyl);

(r) Peyote;

(s) N - ethyl - 3 - piperidyl benzilate;

(t) N - methyl - 3 - piperidyl benzilate;

(u) Phencyclidine;

(v) Psilocybin;

(w) Psilocyn; [~~Tetrahydrocannabinols; Hashish; Phencyclidine.~~]

(x) Pyrrolidine analog of phencyclidine (1 - (1 - phenylcyclohexyl) - pyrrolidine, PCPy, PHP);

(y) Tetrahydrocannabinols;

(z) Thiophene analog of phencyclidine [1 - (1 - (2 - thienyl - cyclohexyl) - piperidine, TCP, TPCP.

(4) Any material, compound, mixture, or preparation which contains any quantity of the following depressants, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Mecloqualone;

(b) Methaqualone (2 - methyl - 3 - o - tolyl - 4(3H) - quinazolinone).

(5) Any material, compound, mixture, or preparation which contains any quantity of the following stimulants, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Fenethylline;

(b) N - ethylamphetamine;

(c) 3, 4 - methylenedioxymethamphetamine (MDMA).

Section 5. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule II:

(1) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate[~~;~~], *excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:*

1. Raw opium;

2. Opium extracts;

3. Opium fluid extracts;

4. Powdered opium;

5. Granulated opium;

6. Tincture of opium;

7. Codeine;

8. Ethylmorphine;

9. Etorphine hydrochloride;

10. Hydrocodone (dihydrocodeinone);

11. Hydromorphone (dihydromorhinone);

12. Metopon

13. Morphine;

14. Oxycodone;

15. Oxymorphone;

16. Thebaine.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, *esters and ethers*, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, *excluding dextrorphan and levopropoxyphene*:

(a) Alfentanil;

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

(e) Bulk Dextropropoxyphene (non-dosage forms);

(f) Dihydrocodeine;

(g) Diphenoxylate;

(h) Fentanyl;

(i) Isomethadone;

(j) Levomethorphan;

(k) Levorphanol;

(l) Metazocine;

(m) Methadone;

(n) Methadone - Intermediate; 4 - cyano - 2 - dimethylamino - 4; 4 - diphenyl butane;

(o) Moramide - Intermediate; 2 - methyl - 3 - morpholino - 1,[~~;~~] 1 - diphenyl[-]propane - carboxylic acid;

(p) Pethidine *(Meperidine)*;

(q) Pethidine - Intermediate - A,[~~;~~] 4 - cyano - 1 - methyl - 4 - phenylpiperidine;

(r) Pethidine - Intermediate - B,[~~;~~] ethyl - 4 - phenylpiperidine - 4 - carboxylate;

(s) Pethidine - Intermediate - C,[~~;~~] 1 - methyl - 4 - phenylpiperidine - 4 - carboxylic acid;

(t) Phenazocine;

(u) Piminodine;

(v) Racemethorphan;

(w) Racemorphan;

(x) Sufentanil.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) *Methamphetamine,* [~~Any substance which contains any quantity of methamphetamine, including~~] its salts, isomers, and salts of isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

(4) Any material, compound, mixture, or preparation which contains any quantity of Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product. (Some other names for dronabinol: (6aR - trans) - 6a, 7, 8, 10a - tetrahydro - 6, 6, 9 - trimethyl - 3 - pentyl - 6H - dibenzo [b, d] pyran - 1 - ol or (-) delta - 9- (trans) - tetrahydrocannabinol.)

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Pentobarbital;

(c) Secobarbital.

(6) Any material, compound, mixture, or preparation which contains any of the following substances:

(a) Immediate precursor to amphetamine and methamhetamine: Phenylacetone, some trade or other names

include phenyl - 2 - propanone, P2P, benzyl methyl ketone, and methyl benzyl ketone;

(b) Immediate precursors to phencyclidine (PCP);

1. 1 - phenlcyclohexylamine;

2. 1 - piperidinocyclohexanecarbonitrile (PCC).

Section 6. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(b) Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule;

(c) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(d) Chlorhexadol;

(e) Glutethimide;

(f) Lysergic acid;

(g) Lysergic acid amide;

(h) Methyprylon;

(i) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane.

(l) Tiletamine and zolazepam or any salt thereof. Trade or other names for tiletamine; 2 - (ethylamino)-2 - (zthienyl) - eyclohexanone. Trade or other names for zolazepam; 4 - (2 - flurophenyl) - 6, 8 - dihydro - 1, 3, 8 - trimethylpyrazolo - (3, 4 - e) (1, 4) - diazepin - 7 (l H) one flupyrazpon.

(2) Nalorphine.

(3) Pentazocine [~~(parenteral or injectable form only)~~].

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more *active, nonnarcotic* ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(i) The cabinet for human resources may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical, position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Mazindol;

(e) Phendimetrazine;

(f) The following amphetamine and methamphetamine combination products and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled substances, to wit:

1. Tablet or capsule: Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

2. Liquid (per 15cc.): Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

Section 7. KRS 218A.110 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule IV;

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Alprazolam;

(b) Bromazepam;

(c) Camazepam;

(d) Chloral betaine;

(e) Chloral hydrate;

(f) Chlordiazepoxide;

(g) Clobazam;

(h) Clonazepam;

(i) Clorazepate;

(j) Clotiazepam;

(k) Cloxazolam;

(l) Delorazepam;

(m) Diazepam;

(n) Estazolam;

(o) Ethchlorvynol;

(p) Ethinamate;

(q) Ethyl loflazepate;

(r) Fludiazepam;

(s) Flunitrazepam;

(t) Flurazepam;

(u) Halazepam;

(v) Haloxazolam;

(w) Ketazolam;

(x) Loprazolam;

(y) Lorazepam;

(z) Lormetazepam;

(aa) Mebutamate;

(bb) Medazepam;

(cc) Meprobamate;

(dd) Methohexital;

(ee) Midazolam;

(ff) Nimetazepam;

(gg) Nitrazepam;

(hh) Nordiazepam;

(ii) Oxazepam;

(jj) Oxazolam;

(kk) Paraldehyde;

(ll) Petrichloral;

(mm) Pinazepam;

(nn) Prazepam;

(oo) Quazepam;

(pp) Temazepam;

(qq) Tetrazepam; and

(rr) Triazolam [~~chloral betaine; chloral hydrate; ethchlorvynol; ethinamate; meprobamate; paraldehyde; petrichloral~~].

(2) *Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:*

(a) Diethylpropion;

(b) Pemoline (including organometric complexes and chelates thereof);

(c) Phentermine;

(d) Pipradrol; and

(e) SPA((-) - 1 - dimethylamino - 1, 2 - diphenylethane).

(3) Any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene

(alpha - () - 4 - dimethylamino - 1, 2 - diphenyl - 3 - methyl - 2 - propionoxybutane), including its salts.

(4) Any material, compound, mixure or preparation which contains any quantity of fenfluramine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(5) The cabinet for human resources may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 8. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule V:

(1) Any compound, mixture, or preparation containing [~~limited quantities of~~] any of the following narcotic drugs, *or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include* [~~which also contains~~] one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by [~~the~~] narcotic *drugs* [~~drug~~] alone:

(a) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams*; and*

(b) Not more than 2.5 milligrams of diphenoxylate hydrochloride and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Any material, compound, mixture, or preparation containing any quantity of buprenorphine, or its salts.

Section 9. KRS 218A.150 is amended to read as follows:

(1) No person shall manufacture, compound, mix, cultivate, grow, *repack,* or by any other process produce, or prepare controlled substances, and no person as a wholesaler *or distributor* shall supply the same, without having first obtained a license so to do from the cabinet for human resources. The cabinet for human resources may adopt regulations and set reasonable fees relating to the issuance and renewal of such licenses. All such licenses shall expire on June 30, following the date of issue, unless renewed. All such fees shall be deposited in a revolving fund to be used by the cabinet in carrying out the provisions of this chapter.

(2) No person shall manufacture any controlled substance *in this Commonwealth* except under the direct supervision of a pharmacist.

(3) Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this chapter provided proper records of the transaction are maintained.

(4) A pharmacy licensed in Kentucky and registered with U.S. drug enforcement administration may distribute, without being licensed as a manufacturer or wholesaler in Kentucky, a quantity of a controlled substance to a practitioner or another pharmacy provided that:

(a) The practitioner or pharmacy to whom the controlled substance is to be distributed is registered with the U.S. drug enforcement administration;

(b) The distribution is recorded by the distributing pharmacy and by the receiving practitioner or pharmacy in accordance with K S 218.200;

(c) If the substance is listed in Schedule II, DEA order form 222C shall be utilized and copy one (1) thereof shall be completed and filed in the Schedule II prescription file and copy two (2) thereof shall be completed and forwarded to U.S. drug enforcement administration;

(d) If the substance is listed in Schedule III, IV or V, a written record of the substance distributed shall be maintained in the appropriate prescription file showing: the date of the transaction, the name, form and quantity of the substance, the name, address and registration number of the purchaser;

(e) The total number of dosage units of all controlled substances distributed by the pharmacy pursuant to this Act during a twelve (12) month period shall not exceed five percent (5%) of the total number of dosage units of all controlled substances distributed and dispensed by such pharmacy during the twelve (12) month period. In the event the five percent (5%) limitation is expected to be exceeded, the pharmacy shall obtain a license to distribute controlled substances in accordance with KRS 218A.160 and 218A.170;

(f) No prescription shall be issued by a practitioner to obtain any controlled substance for the purpose of general dispensing, administering or office use; and

(g) All distributions shall be in accordance with applicable federal and state laws and regulations.

Section 10. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The cabinet for human resources may suspend or revoke any license for cause.

(4) All applications for a license under the provisions of this section shall be submitted to the cabinet for human resources on forms furnished by the cabinet and shall be accompanied by a license fee. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee and shall be nontransferable. The license fee for manufacturers and wholesalers shall be not less than one hundred fifty dollars ($150) and the renewal fee not less than one hundred dollars ($100).

Section 11. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner. *No prescription for a schedule II controlled substance shall be valid after thirty (30) days from date of issue.* No controlled substance in schedule II shall be refilled. All prescriptions for controlled substances classified in schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The maintenance of prescription records under the federal controlled substances laws and regulations, containing substantially the same information as specified herein, shall constitute compliance with this subsection. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. *In addition, all prescriptions shall contain the name, strength and quantity of the drug and directions for use. The above requirements of a prescription shall be met prior to being signed by the practitioner.* [~~All prescriptions for controlled substances shall be retained for a period of two (2) years.~~]

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law. *All prescriptions for controlled substances shall be retained for a period of five (5) years.*

(5) (a) A prescription for a controlled substance to be valid shall be issued only for a legitimate medical purpose by an individual practitioner acting in good faith within the usual course of professional practice. Responsibility for the proper prescribing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research shall not be considered a prescription within the meaning and intent of this chapter.

(b) A prescription shall not be issued in order for an individual practitioner to obtain a controlled substance for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription shall not be issued for the dispensing of controlled substances listed in any schedule for detoxification treatment or maintenance treatment of drug dependent persons except as provided by federal law or regulation

Section 12. KRS 218A.200 is amended to read as follows:

(1) Every practitioner who is authorized to administer or professionally use controlled substances, shall keep a record of such substances received by him, and a record of all such substances administered, dispensed, or professionally used by him otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them.

(3) Pharmacists shall keep records of all controlled substances received and disposed of by them.

(4) The record of controlled substances received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity. Every such record shall be kept for a period of *five (5)* [~~two (2)~~] years. The keeping of a record under the federal controlled substances laws, containing substantially the same information as is specified herein, shall constitute compliance with this section. A copy of the detailed list of controlled substances lost, destroyed, or stolen shall be forwarded to the cabinet for human resources as soon as practical.

Section 13. KRS 218A.240 is amended to read as follows:

(1) It is hereby made the duty of all peace officers within this state, the state police, the cabinet for human resources, their officers and agents, and of all city, county, and commonwealth's attorneys, and the attorney general, within their respective jurisdictions, to enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the cabinet for human resources shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths,

to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence.

(3) The Kentucky board of pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the cabinet for human resources.

(4) Designated agents of the cabinet for human resources, *office of the attorney general* and the Kentucky board of pharmacy are empowered to remove from the files of any pharmacy or other custodian any controlled substance prescription upon tendering a receipt therefor.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter.

(6) It shall be the duty of the cabinet for human resources to make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether or not any provision thereof has been violated.

Section 14. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five

(5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I, [~~or~~] II, *or III* which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 573** is as follows:

HB 573. AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order, or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V.

(3) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trade mark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(4) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(5) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(6) "Drug" means (a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) substances intended for use in the diagnosis, care, mitigation, treatment or prevention of disease in man or animals; (c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (d) substances intended for use as a component of any article specified in this subsection. It does not include devices or their components, parts, or accessories.

(7) *"Drug dependent person" means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a repeated basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.*

(8) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(9)[~~(8)~~] "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale, or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(10)[~~(9)~~] "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(11)[~~(10)~~] "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (10) (a) of this section, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(12)[~~(11)~~] "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3 - methoxy - n - methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(13)[~~(12)~~] "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(14)[~~(13)~~] "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(15)[~~(14)~~] "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(16)[~~(15)~~] "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(17)[~~(16)~~] "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(18)[~~(17)~~] "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(19)[~~(18)~~] "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(20)[~~(19)~~] "Traffic" means to manufacture, sell, transfer or possess with intent to sell a controlled substance.

(21)[~~(20)~~] "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(22)[~~(21)~~] "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to animal owned by him or by a member of his household.

Section 2. KRS 218A.030 is amended to read as follows:

(1) The controlled substances listed or to be listed in the schedules provided for in this chapter are included by whatever official, common, usual, chemical, or trade name designated.

(2) Any compound, mixture or preparation containing any depressant or stimulant substance exempt from the provisions of the federal controlled substance law as set forth in the Code of Federal Regulations is exempt from the provisions of this chapter.

(3) Properly labeled over the counter preparations containing not more than one-eighth (1/8) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with theophylline two (2) grains or ephedrine three-eighths (3/8) grain, or both, or their

salts are exempt from the provisions of this chapter.

(4) Properly labeled over the counter suppository preparations containing not more than one-fourth (1/4) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with theophylline two (2) grains or ephedrine three-eights (3/8) grain, or both, or their salts are exempt from the provisions of this chapter.

Section 3. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl - alpha - methylfentanyl, N - [l - (1 - methyl - 2 - phenyl)ethyl - 4 - piperidyl] - N - phenylacetamide;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha - Methylfentanyl, N - [l - (alpha - methyl - beta - phenyl)ethyl - 4 - piperidyl] proprionanilide;

(h) Alpha - methylthiofentanyl, N - [l - (l - methyl - 2 - (2 - thienyl)ethyl - 4 - piperidyl] N - phenylpropanamide;

(i) Benzethidine;

(j) Benzylfentanyl, N - [l - benzyl - 4 - piperidyl] - N - phenylpropanamide;

(k) Betacetylmethadol;

(l) Beta - hydrozyfentanyl, N - [1 - (2 - hydroxy - 2 - phenyl)ethyl - 4 - piperdyl] - N - phenylpropanamide;

(m) Beta - hydroxy - 3 - methylfentanyl, N - [3 - methyl - 1 - (2 - hydroxy - 2 - phenyl)ethyl - 4 - piperidyl] - N - phenylpropanamide;

(n) Betameprodine;

(o) Betamethadol;

(p) Betaprodine;

(q) Clonitazene;

(r) Dextromoramide; [~~Dextrorphan;~~]

(s) Diampromide;

(t) Diethylthiambutene;

(u) *Difenoxin;*

(v) Dimenoxadol;

(w) Dimepheptanol;

(x) Dimethylthiambutene;

(y) *Dioxaphetyl butyrate* [~~Dioxaphetylebutyrate~~];

(z) Dipipanone;

(aa) Ethylmethylthiambutene;

(bb) Etonitazene;

(cc) Etoxeridine;

(dd) Furethidine;

(ee) *Hydroxypethidine* [~~Hydroxpethidine~~];

(ff) Ketobemidone;

(gg) Levomoramide;

(hh) Levophenacylmorphan;

(ii) 3 - methylfentanyl, N - [3 - methyl - 1 - (2 - phenylethyl) - 4 - piperidyl] - N - phenylpropanamide;

(jj) 3 - methylthiofentanyl, N - [3 - methyl - 1 - (2 - (2 - thienyl)ethyl - 4 - piperadyl] - N - phenylpropanamide;

(kk) Morpheridine;

(ll) Noracymethadol;

(mm) Norlevorphanol;

(nn) Normethadone;

(oo) Norpipanone;

(pp) *Para-fluorofentanyl;*

(qq) Phenadoxone;

(rr) Phenampromide;

(ss) Phenomorphan;

(tt) Phenoperidine;

(uu) Piritramide;

(vv) Propheptazine;

(ww) Properidine;

(xx) Propiram;

(yy) Racemoramide;

(zz) Thenylfentanyl, N - [1 - (2 - thienyl) methyl - 4 - piperdyl] - N - phenylpropanamide;

(aaa) Thiofentanyl, N - [1 - (2 - (2 - thienyl)ethyl - 4 - piperdyl] - N - phenylpropanamide;

(bbb) Tilidine;

(ccc) Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine - N - Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine *(except hydrochloride salt)*;

(k) Heroin;

(l) Hydromorphinol;

(m) l - methyl - 4 - phenyl - 4 - propionoxypiperidine (MPPP);

(n) Methyldesorphine;

(o) Methyldihydromorphine;

(p) Morphine methylbromide;

(q) Morphine methylsulfonate;

(r) Morphine - N - Oxide;

(s) Myrophine;

(t) Nicocodeine;

(u) Nicomorphine;

(v) Normorphine;

(w) *1 - (2 - phenylethyl) - 4 - phenyl - 4 - acetyloxyperidine (PEPAP);*

(x) Phoclodine;

(y) Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) *4 - bromo - 2, 5 - dimethoxy - amphetamine;*

(b) *2, 5 - dimethoxyamphetamine (2, 5 DMA);*

(c) *4 - methoxyamphetamine (PMA);*

(d) *5 - methoxy - 3, 4 - methylenedioxy - amphetamine* [~~3, 4 - methylenedioxy amphetamine~~];

(e) *4 - methyl - 2, 5 - dimethoxy - amphetamine (DOM, STP)* [~~5 - methoxy - 3, 4 - methylenedioxy amphetamine~~];

(f) *3, 4 - methylenedioxy amphetamine;*

(g) 3,4, 5 - trimethoxy amphetamine;

(h) Bufotenine;

(i) Diethyltryptamine;

(j) Dimethyltryptamine; [~~4 - methyl - 2, 5 - dimethoxylamphetamine;~~]

(k) *Ethylamine analog of phencyclidine (N - ethyl - 1 - phenylcyclohexylamine, cyclohexamine, PCE);*

(l) *Hashish;*

(m) Ibogaine;

(n) Lysergic acid diethylamide;

(o) Marijuana;

(p) Mescaline;

(q) *Parahexyl (Synhexyl);*

(r) Peyote;

(s) N - ethyl - 3 - piperidyl benzilate;

(t) N - methyl - 3 - piperidyl benzilate;

(u) *Phencyclidine;*

(v) Psilocybin;

(w) Psilocyn; [~~Tetrahydrocannabinols;~~ ~~Hashish;~~ ~~Phencyclidine.~~]

(x) *Pyrrolidine analog of phencyclidine (1 - (1 - phenylcyclohexyl) - pyrrolidine, PCPy, PHP);*

(y) *Tetrahydrocannabinols;*

(z) *Thiophene analog of phencyclidine [1 - (1 - (2 - thienyl - cyclohexyl) - piperidine, TCP, TPCP.*

(4) Any material, compound, mixture, or preparation which contains any quantity of the following depressants, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) *Mecloqualone;*

(b) *Methaqualone (2 - methyl - 3 - o - tolyl - 4(3H) - quinazolinone).*

(5) Any material, compound, mixture, or preparation which contains any quantity of the following stimulants, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) *Fenethylline;*

(b) *N - ethylamphetamine;*

(c) *3, 4 - methylenedioxymethamphetamine (MDMA).*

Section 4. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule II:

(1) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate[;], *excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:*

1. *Raw opium;*

2. *Opium extracts;*

3. *Opium fluid extracts;*

4. *Powdered opium;*

5. *Granulated opium;*

6. *Tincture of opium;*

7. *Codeine;*

8. *Ethylmorphine;*

9. *Etorphine hydrochloride;*

10. *Hydrocodone (dihydrocodeinone);*

11. *Hydromorphone (dihydromorhinone);*

12. *Metopon*

13. *Morphine;*

14. *Oxycodone;*

15. *Oxymorphone;*

16. *Thebaine.*

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, *esters and ethers*, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, *excluding dextrorphan and levopropoxyphene*:

(a) *Alfentanil;*

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

(e) *Bulk Dextropropoxyphene (non-dosage forms);*

(f) Dihydrocodeine;

(g) Diphenoxylate;

(h) Fentanyl;

(i) Isomethadone;

(j) Levomethorphan;

(k) Levorphanol;

(l) Metazocine;

(m) Methadone;

(n) Methadone - Intermediate; 4 - cyano - 2 - dimethylamino - 4; 4 - diphenyl butane;

(o) Moramide - Intermediate; 2 - methyl - 3 - morpholino - 1,[~~;~~] 1 - diphenyl[~~-~~]propane - carboxylic acid;

(p) Pethidine *(Meperidine)*;

(q) Pethidine - Intermediate - A,[~~;~~] 4 - cyano - 1 - methyl - 4 - phenylpiperidine;

(r) Pethidine - Intermediate - B,[~~;~~] ethyl - 4 - phenylpiperidine - 4 - carboxylate;

(s) Pethidine - Intermediate - C,[~~;~~] 1 - methyl - 4 - phenylpiperidine - 4 - carboxylic acid;

(t) Phenazocine;

(u) Piminodine;

(v) Racemethorphan;

(w) Racemorphan;

(x) Sufentanil.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) *Methamphetamine,* [~~Any substance which contains any quantity of methamphetamine, including~~] its salts, isomers, and salts of isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

(4) Any material, compound, mixture, or preparation which contains any quantity of Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product. (Some other names for dronabinol: (6aR - trans) - 6a, 7, 8, 10a - tetrahydro - 6, 6, 9 - trimethyl - 3 - pentyl - 6H - dibenzo [b, d] pyran - 1 - ol or (-) delta - 9- (trans) - tetrahydrocannabinol.)

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Pentobarbital;

(c) Secobarbital.

(6) Any material, compound, mixture, or preparation which contains any of the following substances:

(a) Immediate precursor to amphetamine and methamhetamine: Phenylacetone, some trade or other names include phenyl - 2 - propanone, P2P, benzyl methyl ketone, and methyl benzyl ketone;

(b) Immediate precursors to phencyclidine (PCP);

1. 1 - phenlcyclohexylamine;

2. 1 - piperidinocyclohexanecarbonitrile (PCC).

Section 5. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule III:.

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(b) Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule;

(c) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(d) Chlorhexadol;

(e) Glutethimide;

(f) Lysergic acid;

(g) Lysergic acid amide;

(h) Methyprylon;

(i) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane.

(l) Tiletamine and zolazepam or any salt thereof. Trade or other names for tiletamine; 2 - (ethylamino)- 2 - (zthienyl) - eyclohexanone. Trade or other names for zolazepam; 4 - (2 - flurophenyl) - 6, 8 - dihydro - 1, 3, 8 - trimethylpyrazolo - (3, 4 - e) (1, 4) - diazepin - 7 (l H) one flupyrazpon.

(2) Nalorphine.

(3) Pentazocine [~~(parenteral or injectable form only)~~].

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more *active, nonnarcotic* ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(i) The cabinet for human resources may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical, position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Mazindol;

(e) Phendimetrazine;

(f) The following amphetamine and methamphetamine combination products and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled

substances, to wit:

1. Tablet or capsule: Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

2. Liquid (per 15cc.): Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

Section 6. KRS 218A.110 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule IV;

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Alprazolam;

(b) Bromazepam;

(c) Camazepam;

(d) Chloral betaine;

(e) Chloral hydrate;

(f) Chlordiazepoxide;

(g) Clobazam;

(h) Clonazepam;

(i) Clorazepate;

(j) Clotiazepam;

(k) Cloxazolam;

(l) Delorazepam;

(m) Diazepam;

(n) Estazolam;

(o) Ethchlorvynol;

(p) Ethinamate;

(q) Ethyl loflazepate;

(r) Fludiazepam;

(s) Flunitrazepam;

(t) Flurazepam;

(u) Halazepam;

(v) Haloxazolam;

(w) Ketazolam;

(x) Loprazolam;

(y) Lorazepam;

(z) Lormetazepam;

(aa) Mebutamate;

(bb) Medazepam;

(cc) Meprobamate;

(dd) Methohexital;

(ee) Midazolam;

(ff) Nimetazepam;

(gg) Nitrazepam;

(hh) Nordiazepam;

(ii) Oxazepam;

(jj) Oxazolam;

(kk) Paraldehyde;

(ll) Petrichloral;

(mm) Pinazepam;

(nn) Prazepam;

(oo) Quazepam;

(pp) Temazepam;

(qq) Tetrazepam; and

(rr) Triazolam [~~chloral betaine; chloral hydrate; ethchlorvynol; ethinamate; meprobamate; paraldehyde; petrichloral~~].

(2) *Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:*

(a) Diethylpropion;

(b) Pemoline (including organometric complexes and chelates thereof);

(c) Phentermine;

(d) Pipradrol; and

(e) SPA((-) - 1 - dimethylamino - 1, 2 - diphenylethane).

(3) Any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha - () - 4 - dimethylamino - 1, 2 - diphenyl - 3 - methyl - 2 - propionoxybutane), including its salts.

(4) Any material, compound, mixure or preparation which contains any quantity of fenfluramine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(5) The cabinet for human resources may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 7. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule V:

(1) Any compound, mixture, or preparation containing [~~limited quantities of~~] any of the following narcotic drugs, *or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include* [~~which also contains~~] one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by [~~the~~] narcotic *drugs* [~~drug~~] alone:

(a) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams; *and*

(b) Not more than 2.5 milligrams of diphenoxylate hydrochloride and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Any material, compound, mixture, or preparation containing any quantity of buprenorphine, or its salts.

Section 8. KRS 218A.150 is amended to read as follows:

(1) No person shall manufacture, compound, mix, cultivate, grow, *repack,* or by any other process produce, or prepare controlled substances, and no person as a wholesaler *or distributor* shall supply the same, without having first obtained a license so to do from the cabinet for human resources. The cabinet for human resources may adopt regulations and set reasonable fees relating to the issuance and renewal of such licenses. All such licenses shall expire on June 30, following the date of issue, unless renewed. All such fees shall be deposited in a revolving fund to be used by the cabinet in carrying out the provisions of this chapter.

(2) No person shall manufacture any controlled substance *in this Commonwealth* except under the direct supervision of a pharmacist.

(3) Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this chapter provided proper records of the transaction are maintained.

(4) A pharmacy licensed in Kentucky and registered with U.S. drug enforcement administration may distribute, without being licensed as a manufacturer or wholesaler in Kentucky, a quantity of a controlled substance

to a practitioner or another pharmacy provided that:

(a) The practitioner or pharmacy to whom the controlled substance is to be distributed is registered with the U.S. drug enforcement administration;

(b) The distribution is recorded by the distributing pharmacy and by the receiving practitioner or pharmacy in accordance with KRS 218.200;

(c) If the substance is listed in Schedule II, DEA order form 222C shall be utilized and copy one (1) thereof shall be completed and filed in the Schedule II prescription file and copy two (2) thereof shall be completed and forwarded to U.S. drug enforcement administration;

(d) If the substance is listed in Schedule III, IV or V, a written record of the substance distributed shall be maintained in the appropriate prescription file showing: the date of the transaction, the name, form and quantity of the substance, the name, address and registration number of the purchaser;

(e) The total number of dosage units of all controlled substances distributed by the pharmacy pursuant to this Act during a twelve (12) month period shall not exceed five percent (5%) of the total number of dosage units of all controlled substances distributed and dispensed by such pharmacy during the twelve (12) month period. In the event the five percent (5%) limitation is expected to be exceeded, the pharmacy shall obtain a license to distribute controlled substances in accordance with KRS 218A.160 and 218A.170;

(f) No prescription shall be issued by a practitioner to obtain any controlled substance for the purpose of general dispensing, administering or office use; and

(g) All distributions shall be in accordance with applicable federal and state laws and regulations.

Section 9. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The cabinet for human resources may suspend or revoke any license for cause.

(4) All applications for a license under the provisions of this section shall be submitted to the cabinet for human resources on forms furnished by the cabinet and shall be accompanied by a license fee. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee and shall be nontransferable. The license fee for manufacturers and wholesalers shall be not less than one hundred fifty dollars ($150) and the renewal fee not less than one hundred dollars ($100).

Section 10. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner. *No prescription for a schedule II controlled substance shall be valid after thirty (30) days from date of issue.* No controlled substance in schedule II shall be refilled. All prescriptions for controlled substances classified in schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The maintenance of prescription records under the federal controlled substances laws and regulations, containing substantially the same information as specified herein, shall constitute compliance with this subsection. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. *In addition, all prescriptions shall contain the name, strength and quantity of the drug and directions for use. The above requirements of a prescription shall be met prior to being signed by the practitioner.* [~~All prescriptions for controlled substances shall be retained for a period of two (2) years.~~]

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law. *All prescriptions for controlled substances shall be retained for a period of five (5) years.*

(5) (a) A prescription for a controlled substance to be valid shall be issued only for a legitimate medical purpose by an individual practitioner acting in good faith within the usual course of professional practice. Responsibility for the proper prescribing of controlled substances is upon the prescribing practitioner. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research shall not be considered a prescription within the meaning and intent of this chapter.

(b) A prescription shall not be issued in order for an individual practitioner to obtain a controlled substance for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription shall not be issued for the dispensing of controlled substances listed in any schedule for detoxification treatment or maintenance treatment of drug dependent persons except as provided by federal law or regulation

Section 11. KRS 218A.200 is amended to read as follows:

(1) Every practitioner who is authorized to administer or professionally use controlled substances, shall keep a record of such substances received by him, and a record of all such substances administered, dispensed, or professionally used by him otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them.

(3) Pharmacists shall keep records of all controlled substances received and disposed of by them.

(4) The record of controlled substances received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity. Every such record shall be kept for a period of *five (5)* [~~two (2)~~] years. The keeping of a record under the federal controlled substances laws, containing substantially the same information as is specified herein, shall constitute compliance with this section. A copy of the detailed list of controlled substances lost, destroyed, or stolen shall be forwarded to the cabinet for human resources as soon as practical.

Section 12. KRS 218A.240 is amended to read as follows:

(1) It is hereby made the duty of all peace officers within this state, the state police, the cabinet for

human resources, their officers and agents, and of all city, county, and commonwealth's attorneys, and the attorney general, within their respective jurisdictions, to enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the cabinet for human resources shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence.

(3) The Kentucky board of pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the cabinet for human resources.

(4) Designated agents of the cabinet for human resources and the Kentucky board of pharmacy are empowered to remove from the files of any pharmacy or other custodian any controlled substance prescription *or other controlled substance records* upon tendering a receipt therefor.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter.

(6) It shall be the duty of the cabinet for human resources to make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether or not any provision thereof has been violated.

Section 13. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell

less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I, [~~or~~] II, *or III* which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

HB 592. AN ACT relating to embalmers and funeral directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

The board may, upon sufficient proof submitted to them by sworn statements or testimony, refuse to issue, or may revoke or suspend a certificate of registration as an apprentice for an embalmer's or funeral director's license for any of the following causes:

(1) Failure to devote all his working hours to the duties of his apprenticeship;

(2) Failure to make any report required by law to the board;

(3) Absence from duty;

(4) Disobedience of proper orders or instructions of his superior;

(5) Conviction for violation of the requirements of this chapter, conviction of a felony, or any misdemeanor resulting in imprisonment or a fine of more than five hundred dollars ($500);

(6) Soliciting business for a funeral director or for an embalmer in violation of this chapter;

(7) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice; or

(8) Violation of any of the provisions of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

There shall be appointed by the board an agent whose title shall be "inspector of the board of funeral directors and embalmers of the Commonwealth of Kentucky." The inspector shall receive such compensation as the board may determine. The inspector shall hold office during the pleasure of the board which shall determine what his duties shall be. The inspector may enter the office, premises, establishment or place of business of any funeral director or embalmer in the Commonwealth of Kentucky or any office, premises, establishment or place where the practice of funeral directing or embalming is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting the office, premises or establishment for violations of this chapter and for the purpose of inspecting the license and registration of any funeral director, embalmer, licensee or resident apprentice operating therein.

Section 3. KRS 316.020 is amended to read as follows:

(1) No person not registered in this state as an embalmer or as a funeral director on or *before* [~~prior to~~] May 15, 1960, shall engage in, or attempt to engage in, embalming or funeral directing until he has been licensed to do so under the provisions of this chapter.

(2) One (1) member of every firm, and one (1) officer and one (1) stockholder of every corporation, that engages in embalming and funeral directing in Kentucky, shall be a licensed embalmer and licensed funeral director, having Kentucky license in full force and effect. Each establishment devoted to the care, preparation or disposal of dead human bodies must be under the direct and constant supervision of a licensed embalmer and licensed funeral director, having Kentucky licenses in full force and effect.

Section 4. KRS 316.030 is amended to read as follows:

An applicant for an embalmer's license must be eighteen (18) years of age and a graduate of an accredited high school, as evidenced by a certificate or diploma from such accredited high school. He shall have completed a course of study of one (1) year in science and art of embalming, disinfection and sanitation in an accredited school of embalming recognized by the board. He shall have served two (2) additional years of apprenticeship under a licensed embalmer and licensed funeral director holding a Kentucky license. The licensed embalmer and funeral director must have an established funeral home in Kentucky. *During each of the two (2) years of his apprenticeship under a licensed embalmer and licensed funeral director holding a Kentucky license, each applicant for an embalmer's license shall take an active part in the operation of embalming not less than twenty-five (25) dead human bodies. A licensed embalmer holding a Kentucky license shall supervise all embalming work participated in by an apprentice.*

Section 5. KRS 316.040 is amended to read as follows:

When beginning the apprenticeship as required in KRS 316.030 the applicant shall come before the board and file a certificate of registration, under oath, showing that he is eighteen (18) years of age. The certificate shall have the name of the person under whom he will serve his apprenticeship, the date of registration, and a sworn statement by the person under whom he is registered that the applicant will do actual service, devoting all his working hours to the service, and will be paid a monthly salary. The applicant *shall* [~~will~~] pay a registration fee of *twenty dollars ($20)* [~~ten dollars ($10)~~]. He *shall* [~~will~~] affirm the requirements set out in the apprenticeship forms furnished by the board which state the applicant will serve three (3) consecutive years of apprenticeship, the one (1) year spent in embalming college to apply on his three (3) years' apprenticeship, with an additional two (2) years under the direct supervision of a licensed embalmer and licensed funeral director whose license is in full force and effect in Kentucky. *No licensed funeral director or licensed embalmer shall be permitted to register or have registered more than five (5) apprentices under this license at the same time.* The secretary of the board *shall* [~~will~~] furnish the applicant forms to keep a record of his working hours as an apprentice and he shall file these reports every six (6) months for a period of three (3) years with the secretary of the board. In these reports he *shall* [~~will~~] show the hours he has worked, the number of bodies he has assisted in preparing, and the salary paid him monthly. These forms shall be signed by him and the person under whom he is registered, their signatures being sworn to by a notary public whose commission is in full force and effect.

Section 6. KRS 316.050 is amended to read as follows:

After completing a course of study as required in KRS 316.030 and two (2) additional years of apprenticeship as required in KRS 316.040, any person desiring to take an embalmer's examination shall make a written application to the secretary of the board, accompanied by a fee of *fifty dollars ($50)* [~~thirty-five dollars ($35)~~], the application forms to be furnished by the board. He shall give detailed information as required in KRS 316.030 and KRS 316.040. He shall furnish the board with two (2) certificates of good moral character, the certificates to be signed and sworn to by a licensed embalmer and a licensed funeral director engaged in business in Kentucky and holding Kentucky embalmer and funeral director's licenses in full force and effect in Kentucky. If, after reviewing the application, the board finds the applicant has complied with all the requirements of law set out in this chapter, the secretary of the board shall notify the applicant that he is entitled to take the examination and the time and place of the examination.

Section 7. KRS 316.090 is amended to read as follows:

An applicant for a funeral director's license shall be eighteen (18) years of age, a graduate of an accredited high school, and shall have served three (3) consecutive years' apprenticeship under a licensed embalmer and licensed funeral director who have an established funeral home in Kentucky. He shall devote all of his working hours to this apprenticeship, being paid a regular monthly salary. He shall meet all the requirements of this chapter as it relates to the apprenticeship and registration and examination of an embalmer, *including the twenty dollar ($20) registration fee for being an apprentice,* with the exception of the provisions in KRS 316.030 and 316.040 which relate to the completion of a course of study of one (1) year "in science and art of embalming, disinfection and sanitation in an accredited school of embalming recognized by the state board'×*and the provision requiring the active participation in the operation of embalming of not less than twenty-five (25) dead human bodies under the supervision of a licensed embalmer during each year of his apprenticeship.*[~~"~~] The one (1) year in embalming school will not be required for an applicant for funeral director's license. He shall serve three (3) consecutive years' apprenticeship.

Section 8. KRS 316.130 is amended to read as follows:

(1) No license granted under this chapter shall be issued or renewed for a period exceeding one (1) year. Every license and renewal shall expire on July 31 following the date of its issuance unless sooner revoked or canceled.

(2) Every licensed embalmer and every licensed funeral director who desires to continue to practice shall have his license renewed by filing an application for renewal with the secretary of the state board each year within thirty (30) days next before the expiration of his license, upon blanks furnished by the board. He shall pay a renewal fee of *thirty dollars (30)* [~~twenty dollars ($20)~~].

(3) Every licensed funeral establishment shall renew its license by filing an application for renewal with the secretary of the state board each year within thirty (30) days next before the expiration of the current license, on blanks furnished by the board. The renewal fee shall be fifty dollars ($50)

(4) No license granted under this chapter shall be transferable.

Section 9. KRS 316.140 is amended to read as follows:

Any person holding a valid embalmer's or funeral director's license currently in force which has been issued by an authority of another state or federal district having a law recognized by the board as comparable to the Kentucky law governing embalmers and funeral directors, and who wishes to engage in the practice of embalming or funeral directing in this state, may make a written application to the secretary of the board, accompanied by a *one hundred dollar ($100)* [~~fifty dollar ($50.00)~~] application fee and by a certificate from the authority which issued his license showing that he is the holder of a currently valid license obtained by examination while a resident of the state or federal district in which he is licensed. If the board finds that the applicant has met the qualifications and complied with the requirements of this chapter, it may grant him the privilege of taking the desired examination for an embalmer's or a funeral director's license.

Section 10. KRS 316.155 is amended to read as follows:

(1) The board shall, before denying an application for license or before suspending or revoking any license, or before placing any licensee on probation, set the matter down for hearing; and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing.

(2) The notice may be served by delivery personally to the applicant or licensee or by mailing by certified mail, return receipt requested, to the last known business or home address of the applicant or licensee.

(3) The hearing on the charges shall be at the time and place the board shall prescribe.

(4) The applicant or licensee in all hearings shall have the opportunity to be heard in person or by counsel.

(5) The board may issue such orders as it deems appropriate to facilitate any hearing under this section.

(6) For the purposes of taking testimony under this section, and for the purposes of any other section of this chapter, each member of the board, and the secretary thereof, *may* [~~is hereby endowed with the authority to~~] administer oaths in the same manner as a clerk of a court of record. The board, or any member thereof, may subpoena licensees or other witnesses to appear before it *at a time and place to be therein named, and to bring any books, records and documents specified.*

(7) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

Section 11. KRS 316.250, Field Counsel,is repealed.

Calendar

HB 324, **HB 654**, **HB 677**, **HB 625**, **HB 350**, **HB 353**, **HB 503**, **HB 548**, **HB 556**, **HB 600** and **HB 626** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 596 and **HB 616** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 642 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 642** be passed.

On the roll call the vote was: Yeas 75, Nays 14. (See February 25, 1988 roll call on **HB 642** - Appendix A.)

HB 642 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 642** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Committee Substitute to **HB 496**. Agreed.

Representative Farrow moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 496**. Agreed.

Representative Yates moved that **HB 496**, by way of Committee Substitute as amended, be passed.

Representative Farrow moved that **HB 496**, by way of Committee Substitute as amended, be laid on the Clerk's Desk.

On the roll call the vote was yeas 30-Allen, Altman, Ark, Barrows, J. Brown, Castleman, Clarke, Cline, Crupper, Curd, Farrow, Ford, Geveden, Gray, Gregory, K. Harper, Hoover, T. Jones, Keith, Lile, Long, Mack, Meyer, Moberly, Noe, Northup, Overstreet, Reinhardt, Siler, Todd. Nays 54-Ackerson, Adams, Adkins, Blandford, Blevins, Bronger, M. Brown, Bruce, Callahan, L. Clark, P. Clark, Cyrus, Deskins, Donnermeyer, Freibert, Guenthner, Handy, J. Harper, Hatcher, Heleringer, Jackson, Johnson, A. Jones, Kerr, Lear, LeMaster, Little, Lundergan, Maggard, Mason, McBee, McElroy, Morris, Napier, Nett, O'Brien, Preston, Priddy, Rapier, Richards, Ridley, Riner, Robinson, Scorsone, Seum, B. Smith, R. Smith, Strong, Stumbo, Walker, White, Will, Worthington, Yates.

The motion that **HB 496**, by way of Committee Substitute as amended, be laid on the Clerk's Desk was rejected.

On the roll call the vote was: Yeas 68, Nays 26. (See February 25, 1988 roll call on **HB 496** - Appendix A.)

HB 496, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 496**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 54** and **HB 55** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:32 p.m.)

HB 54 and **HB 55** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 571 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 571** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 25, 1988 roll call on **HB 571** - Appendix A.)

HB 571 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 571** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 656, with Floor Amendment and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Floor Amendment No. 1 to **HB 656**. Agreed.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 656**. Agreed.

Representative Deskins moved that **HB 656**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 25, 1988 roll call on **HB 656** - Appendix A.)

HB 656, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 656**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 657, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 657**. Agreed.

Representative Deskins moved that **HB 657**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 25, 1988 roll call on **HB 657** - Appendix A.)

HB 657, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 657**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 53, as amended by House Floor Amendment No. 1, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Lear moved that the House recede from House Floor Amendment No. 1 to **SB 53**. Agreed.

Representative Lear moved that **SB 53** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1988 roll call on **SB 53** - Appendix A.)

SB 53 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Long moved that the House concur in the Senate Committee Substitute to **HB 25**. Rejected.

Representative Johnson moved that the House refuse to recede from House Committee Amendments No. 1, 2 and 3 on **SB 8**. Agreed.

A Conference Committee Report was filed on **SB 2**.

Representative Richards moved that the Conference Committee Report on **SB 2** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 2**.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 806, by Representative Heleringer: AN ACT relating to racing.

HB 807, by Representatives Burch, Mack and Priddy: AN ACT relating to nursing.

HB 808, by Representative Donnermeyer: AN ACT relating to retirement.

HB 809, by Representative B. Jones: AN ACT relating to health spas.

HB 810, by Representative Long: AN ACT relating to the state investment commission.

HB 811, by Representative Long: AN ACT relating to permitted investments of the Kentucky Agricultural Finance Corporation.

HB 812, by Representative Hourigan: AN ACT relating to school employes.

HB 813, by Representative Guenthner: AN ACT relating to crimes and punishments.

HB 814, by Representative Richards: AN ACT relating to insurance.

HB 815, by Representative Donnermeyer: AN ACT relating to medical procedures.

HB 816, by Representative Burch: AN ACT relating to blood donations.

HB 817, by Representative Little: AN ACT relating to mining.

HB 818, by Representative Little: AN ACT relating to teachers and school administrators.

HB 819, by Representative Gray: AN ACT relating to transient taxes.

HB 820, by Representative Priddy: AN ACT relating to animal control.

HB 821, by Representatives Donnermeyer and Callahan: AN ACT relating to sewage disposal systems.

HB 822, by Representative Meyer: AN ACT relating to city elections.

HB 823, by Representatives Reinhardt and Donnermeyer: AN ACT relating to sales and use taxes.

HR 112, by Representative Ackerson: A RESOLUTION honoring Heather Collier, 1988 Kentucky Junior Miss.

HR 113, by Representative Hatcher: A RESOLUTION honoring the Reverend Louis Coleman and "The Run for Equality".

HCR 114, by Representative O'Brien: A CONCURRENT RESOLUTION directing a study of the statutes in the KRS relating to administrative hearings.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 238, HB 378, HJR 46, HB 627, HB 689, HB 715, SB 12, SB 13.**

State Government: **HB 609.**

Banking and Insurance: **HB 676, HB 696.**

Health and Welfare: **HB 759.**

Judiciary-Criminal: **HB 721, HB 732, HB 659.**

Judiciary-Civil: **HB 586, HB 619, HB 650.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 194** with Committee Amendment attached thereto, **HB 495**, **HB 608** with Committee Substitute attached thereto, and **HB 651** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 194, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the cabinet, an operator shall prepare and carry out a method of operation, plan of grading and backfilling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, rolling stones and overburden, water pollution and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant by certified mail, return receipt requested within sixty-five (65) cumulative working days after receipt of a complete application if it is or is not acceptable. Provided, however, that in the event that applicable notice, hearing and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures. If the plan is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application. Should the applicant disagree with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet [~~in the manner provided by KRS 224.083~~]. The cabinet shall notify the applicant by certified mail, return receipt requested within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may

appeal through the *circuit court of the county in which the mine is located* [~~courts as set forth in KRS 224.085~~].

(2) No operator shall throw, dump, pile or permit the dumping, piling or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit such materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 2. KRS 350.255 is amended to read as follows:

(1) Any person may petition the secretary of the natural resources and environmental protection cabinet to initiate a proceeding for the issuance, amendment or repeal of any regulation under this chapter.

(a) Notice and an opportunity shall be provided for the petitioner and any person wishing to participate to be heard at a public hearing within thirty (30) days following the filing of the petition on the facts, technical justification and law alleged in the petition.

(b) The secretary shall render a final order in writing within thirty (30) days after the hearing granting or denying the petition on grounds that there is a reasonable basis for the petitioned rule change, or is not, or that it is required or prohibited by law and setting forth the reasons for the decision.

(c) The secretary shall initiate a rulemaking proceeding pursuant to KRS Chapter 13 within thirty (30) days after a petition is granted proposing the issuance, amendment or repeal of the petitioned regulations in conformity with the final order.

(d) Any participant in the petition proceedings may seek review in the circuit court of Franklin County of a final order of the secretary denying all or any portion of the action requested in a petition.

(2) The cabinet shall promulgate regulations pursuant to the provisions set forth in this chapter establishing formal and informal hearing and conference procedures whereby any such hearing or conference shall upon the written request of the operator, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer *appointed by the governor,* who is independent of any prosecutorial functions of the cabinet. The procedures developed pursuant to this subsection will provide that such hearings and conferences be held in the most expeditious manner possible within the minimum time constraints established under this chapter; all such actions shall be adjudicatory in nature; and no person who presided at a prior hearing or conference shall either preside at a subsequent hearing in the same matter or participate in any further decision or any subsequent administrative appeal. No regulation or administrative practice relating to conferences or hearings shall authorize the imposition or collection of a civil penalty, or the compromise of a dispute relating to an alleged violation, by any cabinet personnel other than an independent, impartial hearing officer in the course of a formal or informal hearing or conference.

Section 3. KRS 350.465 is amended to read as follows:

(1) The provisions of this section and regulations promulgated pursuant thereto (except with regard to the mining of clay, limestone, sand, gravel, fluorspar, stone, and rock asphalt) shall apply to the regulation of all surface coal mining and reclamation operations in the Commonwealth in the event that the Commonwealth receives from the United States department of interior and pursuant to the surface mining control and reclamation act of 1977 (PL 95-87) approval of a permanent state regulatory program, and the Commonwealth has promulgated regulations pursuant to this section.

(2) The natural resources and environmental protection cabinet is hereby authorized and directed to prepare, develop and promulgate a comprehensive permanent regulatory program for the implementation of the surface mining control and reclamation act of 1977 (PL 95-87) for the purpose of accepting and administering primary enforcement responsibilities pursuant to that act. The implementation of this section shall contain procedures similar to the surface mining control and reclamation act of 1977 (PL 95-87) and shall require surface coal mining operation performance standards no more stringent than provided for in that act. Nothing herein shall be construed to empower the cabinet to adopt a regulatory program in conflict with the policy and purposes of the surface mining control and reclamation act of 1977 (PL 95-87). To that end, the natural resources and environmental protection cabinet shall include in its permanent regulatory

program:

(a) Environmental protection performance standards to prevent or minimize the adverse environmental effects of surface coal mining and reclamation operations on the land and water resources of the Commonwealth.

(b) A procedure for designating as being unsuitable for mining certain lands because of their topographical, geological, hydrological, climatological, biological, or chemical characteristics or historical, cultural, scientific or aesthetic values.

(c) Procedures and regulations for the allowance of those persons having an interest which is or may be adversely affected to have the opportunity to be heard at every significant or critical part of the administrative and judicial process, including, but not limited to, the permit review and issuance process, the general enforcement process and hearings incident thereto, and the rulemaking procedures conducted by the cabinet; and procedures and regulations for persons having a valid legal interest which is or may be adversely affected by the setting, release, and inspection of bonds to have an opportunity to be heard at every significant or critical part of the administrative and judicial process relating to bonds. Such regulations shall provide reasonable procedures for notice and an opportunity to be heard, access to minesites, access to records, and other reasonable procedures to accomplish the purposes of this chapter.

(d) Procedures for the administrative and judicial review of all actions of the cabinet to administer and enforce the provisions of this chapter, including the award of costs and expenses (including attorney's fees and expert witness fees) by the cabinet or the court.

(e) Plans and procedures for the reclamation and restoration of land and water resources affected by mining which have been abandoned or inadequately reclaimed to the standards imposed by this section and for which no bond is held or legal obligation to reclaim continues. Such plan shall include provisions for the imposition of liens for necessary reclamation expenditures made on private property.

(f) Procedures for the assumption of the small operator assistance program pursuant to the surface mining control and reclamation act of 1977 (PL 95-87). The cabinet shall assume and implement that program and apply for and administer funds as may be provided pursuant to that act and such state funds as may be provided for the program.

(3) In addition to any other authority, power and duty vested in it by law, the cabinet shall have and exercise broad authority, power and duty to:

(a) Require those persons who wish to engage in surface coal mining and reclamation operations to submit application for a permit from the cabinet to conduct such operations, and to include in that application all information required by the cabinet pertaining to that operation.

(b) Issue, deny, or modify under such conditions as the cabinet may prescribe, permits to conduct surface coal mining and reclamation operations within the Commonwealth.

(c) Enter and inspect any permitted surface coal mining and reclamation operation or any known or suspected unpermitted mining operation for the purpose of ascertaining compliance with any provision of this chapter or of the permit.

(d) Order the cessation of mining activities, and if necessary impose affirmative abatement obligations, upon the operator when, upon inspection, the cabinet determines that this section or any permit condition is being or has been violated so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth.

(e) Order an operator to comply with the requirements of this section or his permit if inspection reveals a violation of the conditions of his permit or of any provision of this section.

(f) Order an operator to appear and show cause why his permit should not be suspended or revoked and his bond forfeited if the cabinet determines that the operator or the permitted operation has a pattern of violations of this section or permit conditions, and has wilfully violated this section or permit conditions or a pattern of violations exists and that such violations are caused by the permittees' unwarranted failure to comply with this section or permit conditions.

(g) Require, increase, release or decrease, under such conditions as the cabinet may prescribe reclamation performance bonds and cause the forfeiture and collection of those bonds where the permittee has abandoned the operation or for which the permit under which the bond was given has been revoked or has expired without the required reclamation.

(h) To administratively impose, in lieu of those civil penalties provided for in KRS 350.990, civil penalties of up to five thousand dollars ($5,000) per day for violations of permit conditions, this section, or any orders of the cabinet and enforce the administrative assessment of such penalties by initiating civil action in the [~~Franklin~~] circuit court *of the county in which the mine is located* [~~or in any court having jurisdiction of the defendant~~].

(i) Conduct hearings and make investigations of any matter relating to the regulation of surface coal mining and reclamation operations, and provide for the assessment and payment of civil penalties [~~including the placement of proposed civil penalty assessments into an escrow account prior to a contest on the amount of the assessment,~~] consistent with the process of law.

(j) Provide for variances or exceptions consistent with KRS 350.450 from or in addition to mining performance standards, recognizing the specific characteristics inherent in:

1. Steep slope mining;

2. Mountaintop removal;

3. Relatively low acreage disturbance or annual coal production;

4. Prime farmland mining as defined by the United States department of agriculture, and to provide for other variances where land uses and watersheds will be improved; and

5. Post-mining uses different from and as beneficial as the pre-mining uses.

(k) Receive and expend funds or aid from whatever source to accomplish the purposes of this chapter.

(l) Propose and promulgate regulations to accomplish the purposes of this section.

(4) The cabinet shall not promulgate regulations which are inconsistent with the surface mining control and reclamation act of 1977 (PL 95-87).

(5) Any person who violates a provision of this section or the regulations promulgated pursuant thereto shall be subject to those penalties and remedies set forth in KRS 350.990 except as provided for in subsection (3)(h) herein.

Section 4. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for said violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section; provided, however, that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for such abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which such violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as a regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of such method for calculating monetary penalties if he or she determines that, taking

into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's office of general counsel, or upon the secretary's request, by the attorney general. The [~~Franklin~~] circuit court *of the county in which the mine is located* shall hold [~~concurrent~~] jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the state treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in a trust and agency account, entitled the abandoned mine land enhancement fund, for the purposes set forth in KRS 355.595. Five hundred thousand dollars ($500,000) of the moneys existing in the fund on September 1, 1986, shall be allocated to the bond pool fund established pursuant to KRS 350.700. If the total amount in the bond pool fund is less than one million five hundred thousand dollars ($1,500,000) on January 1, 1988, an additional two hundred fifty thousand dollars ($250,000) of the abandoned mine land enhancement fund may be loaned interest free to the bond pool fund. Repayment of the loan shall be made when the bond pool fund accumulates five million dollars ($5,000,000). The abandoned mine land enhancement fund shall be administered by the secretary in accordance with accounting practices as established by the finance and administration cabinet.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the cabinet pursuant to KRS 350.029 or regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing such violations as hereinafter provided. Each day shall constitute a separate violation. However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) It shall be the duty of the cabinet's office of 3eneral counsel or, upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, against any operator or other person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The [~~Franklin~~] circuit court *of the county in which the mine is located* shall hold [~~concurrent~~] jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto.

(4) Any person who shall knowingly and willfully violate any of the provisions of this chapter, except as provided in subsection (5) of this section or any determination or order promulgated pursuant to the sections of this chapter which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which such violation occurs may constitute a separate offense.

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the cabinet pursuant to KRS 350.029 or regulations promulgated pursuant thereto, with the intent to violate such laws shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other

document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who shall willfully resist, prevent, impede, or interfere with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) Whenever a corporate permittee violates any provision of this chapter or regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50).

(11) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky department of insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(12) The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet division of abandoned lands shall have the authority to approve proposed in-kind projects and to recommend such projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet is authorized to prepare and promulgate such regulations as are necessary to implement and administer the provisions of this subsection.

The Committee Amendment No. 1 to **HB 194** is as follows:

Amend printed copy of **HB 194** on page 10, lines 4 through 7, by deleting the brackets and strike-throughs.

HB 495. AN ACT relating to underground coal mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) *A safety committeeman designated by the safety committee at the mine shall accompany the inspector on each official inspection of the mine, and for the purpose of pay, time spent by the safety committeeman shall be considered constructive work;*

(8) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay including any overland coal belts; and

(9)[~~(8)~~] A mine inspector shall have the express authority to enter upon the premises of and inspect any coal or clay mine, including any overland coal belts, at any reasonable time.

HB 608, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) [~~All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight (8) month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.~~

~~(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit~~

~~beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.~~

~~(4)~~] No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(3)[~~(5)~~] An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant, *which shall be updated immediately if changed at any point prior to final bond release*;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) *The names and addresses of* [~~Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not~~] every officer, partner, director, *or person performing a function similar to a director*, or any individual owning of record [~~or beneficially (alone or with associates)~~] ten percent (10%) or more of any class of voting stock of the applicant, *and whether the applicant or any such person* is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. *The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit such updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit such information to the cabinet upon request. Upon receipt of such updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing such information*;

(h) A listing of any and all violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(4)[~~(6)~~] The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(5)[~~(7)~~] The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(6)[~~(8)~~] The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet

meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(7)[~~(9)~~] Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(8)[~~(10)~~] All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(9)[~~(11)~~] The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(10)[~~(12)~~] In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(11)[~~(13)~~] The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(12)[~~(14)~~] A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. [~~Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.~~]

(13)[~~(15)~~] Surface coal mining and reclamation operations which *affected* [~~affect~~] two (2) acres or less, *as defined by regulations of the cabinet, which were conducted pursuant to two-acre-or-less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987,* shall be exempt from the requirements of this chapter, except *as follows. Reclamation of such operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. In* [~~that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in~~] no event shall the cabinet require that the highwalls left by such operations be eliminated. *Bond shall be maintained until reclamation is successfully completed.* [~~In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days.~~] All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted [~~and permits granted~~] pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(14)][~~(16)~~] The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require[~~, for underground mines that are greater than two (2) acres under subsection (15) of this section,~~] that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151[~~; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation~~].

(15)[~~(17)~~] Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(16)[~~(18)~~] If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(17)[~~(19)~~] Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(18)[~~(20)~~] Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(19)[~~(21)~~] Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum f four (4) feet above the coal seam being mined.

[~~(22) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.~~]

The Committee Substitute to **HB 608** is as follows:

HB 608. AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) [~~All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight (8) month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.~~

~~(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.~~

~~(4)~~] No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(3)[~~(5)~~] An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant, *which shall be updated immediately if changed at any point prior to final bond release*;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) *The names and addresses of* [~~Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not~~] every officer, partner, director, *or person performing a function similar to a director of the applicant, together with the names and addresses of* [~~or~~] any individual owning of record [~~or beneficially (alone or with associates)~~] ten percent (10%) or more of any class of voting stock of the applicant, *and whether the applicant or any such person* is subject to any of the provisions of subsection (3) of KRS

350.130 and he shall so certify. *The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit such updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit such information to the cabinet upon request. Upon receipt of such updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing such information;*

(h) A listing of any and all violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(4)[~~(6)~~] The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(5)[~~(7)~~] The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(6)[~~(8)~~] The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(7)[~~(9)~~] Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding

areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(8)[~~(10)~~] All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(9)[~~(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.~~] All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(10)[~~(12)~~] In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(11)[~~(13)~~] The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(12)[~~(14)~~] A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. [~~Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.~~]

(13)[~~(15)~~] Surface coal mining and reclamation operations which *affected* [~~affect~~] two (2) acres or less, *as defined by regulations of the cabinet, which were conducted pursuant to two-acre-or-less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987,* shall be exempt from the requirements of this chapter, except *as follows. Reclamation of such operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. In* [~~that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in~~] no

event shall the cabinet require that the highwalls left by such operations be eliminated. *Bond shall be maintained until reclamation is successfully completed.* [~~In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days.~~] All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted [~~and permits granted~~] pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(14)][~~(16)~~] The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require[~~, for underground mines that are greater than two (2) acres under subsection (15) of this section,~~] that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151[~~; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation~~].

(15)[~~(17)~~] Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(16)[~~(18)~~] If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(17)[~~(19)~~] Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(18)[~~(20)~~] Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(19)[~~(21)~~] Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(20)[~~(22)~~] All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 2. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the person or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. If any person or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to said operator or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. Such order shall require the person or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable regulations for the implementation of this section. Such notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the person or operator has failed to comply with this chapter or the regulations or orders of the cabiet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. If the person or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, except as provided in subsection (2) of this section and in KRS 350.110, provided that failure to attend a hearing shall be excused for good cause shown.

(2) [~~When a bond is forfeited pursuant to the provisions of this chapter, the secretary shall give notice to the attorney general, who shall collect the forfeiture. Bond forfeitures collected in cases where the surface rights have been severed from the mineral rights shall be paid to the surface owner for the purpose of reclaiming in accordance with the provisions of this chapter the same area of land included under the bond; provided, that no payment shall be made until the reclamation has been accomplished in the manner required by the cabinet, to the extent of available forfeited funds, and no payment shall be made beyond the actual cost of reclamation. Provided further, that this section shall not apply in cases where the owner cannot be located, or does not desire or is unable to accomplish the work in the manner required by the cabinet.~~

~~(3)~~] An operator or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that such violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no operator or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator or person has paid such sum as the cabinet finds is adequate to reclaim such lands. The cabinet shall not issue any permits to or allow future operations by any operator or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(3)[~~(4)~~] In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of such condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(4)[~~(5)~~] Each provision of this section shall be interpreted and applied consistently with due process of law.

(5)[~~(6)~~] The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to regulations promulgated by the cabinet.

Section 3. KRS 350.131 is amended to read as follows:

(1) When the reclamation bond for an interim or pre-interim program permit is forfeited by the cabinet, and the entire forfeited amount is not necessary to establish proper drainage and revegetation on the permit area for which it was submitted, the cabinet may use any remaining funds to supplement [~~forfeited bonds for~~] reclamation of other *forfeited or released* permit areas, if such other permit areas endanger public health and safety.

(2) When the reclamation bond for a permanent program permit is forfeited by the cabinet, and the entire forfeited amount is more than the amount necessary to complete reclamation, the unused funds shall be returned to the party from whom they were collected, subject to the cabinet's right to attach or set-off such proceeds under other state laws.

SECTION 4. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

Consistent with 43 CFR Section 4.1160, et. seq., and Section 525 of the Surface Mining Control and Reclamation Act of 1977 (P. L. 95-87), prepayment of penalty shall not be required when the operator or permittee contests only the fact of the violation and not the penalty assessment amount.

HB 651, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to

extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the natural resources and environmental protection cabinet;

(11) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "Incidental boundary revision" means an extension to a permit area that is necessary for reasons unforeseen at the time the original permit application was prepared and that is small in relation to the surface mining permit area or surface operations area for underground mining activities.

(a) If an extension includes new areas from which coal will be removed, it shall be considered as an incidental boundary revision only if the extension is no more than fifteen percent (15%) of the permit area acreage. An incidental revision shall not exceed ten (10) acres.

(b) If an extension is for new areas not involving extraction of coal, it shall be considered an incidental boundary revision only if the extension is no more than ten percent (10%) of the permit area acreage.

(c) Cumulative acreage added by successive revisions shall not exceed the above limitations.

Section 2. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the person or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. *If an operator feels reasonable time has not been granted for remedial action, he may request an on-sight inspection and review of the violation by supervisory personnel of the cabinet.* If any person or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to said operator or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. Such order shall require the person or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable regulations for the implementation of this section. Such notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the person or operator has failed to comply with this chapter or the regulations or orders of the cabinet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. *If an operator feels a reasonable time has not been granted for remedial action, then he may request an on-sight inspection and review of the violation by supervisory personnel of the cabinet.* If the person or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, except as provided in subsection (2) of this section and in KRS 350.110, provided

that failure to attend a hearing shall be excused for good cause shown.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the secretary shall give notice to the attorney general, who shall collect the forfeiture. Bond forfeitures collected in cases where the surface rights have been severed from the mineral rights shall be paid to the surface owner for the purpose of reclaiming in accordance with the provisions of this chapter the same area of land included under the bond; provided, that no payment shall be made until the reclamation has been accomplished in the manner required by the cabinet, to the extent of available forfeited funds, and no payment shall be made beyond the actual cost of reclamation. Provided further, that this section shall not apply in cases where the owner cannot be located, or does not desire or is unable to accomplish the work in the manner required by the cabinet.

(3) An operator or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that such violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no operator or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator or person has paid such sum as the cabinet finds is adequate to reclaim such lands. The cabinet shall not issue any permits to or allow future operations by any operator or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(4) In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of such condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(5) Each provision of this section shall be interpreted and applied consistently with due process of law.

(6) The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to regulations promulgated by the cabinet.

Section 3. KRS 350.465 is amended to read as follows:

(1) The provisions of this section and regulations promulgated pursuant thereto (except with regard to the mining of clay, limestone, sand, gravel, fluorspar, stone, and rock asphalt) shall apply to the regulation of all surface coal mining and reclamation operations in the Commonwealth in the event that the Commonwealth receives from the United States department of interior and pursuant to the surface mining control and reclamation act of 1977 (PL 95-87) approval of a permanent state regulatory program, and the Commonwealth has promulgated regulations pursuant to this section.

(2) The natural resources and environmental protection cabinet is hereby authorized and directed to prepare, develop and promulgate a comprehensive permanent regulatory program for the implementation of the surface mining control and reclamation act of 1977 (PL 95-87) for the purpose of accepting and administering primary enforcement responsibilities pursuant to that act. The implementation of this section shall contain procedures similar to the surface mining control and reclamation act of 1977 (PL 95-87) and shall require surface coal mining operation performance standards no more stringent than provided for in

that act. Nothing herein shall be construed to empower the cabinet to adopt a regulatory program in conflict with the policy and purposes of the surface mining control and reclamation act of 1977 (PL 95-87). To that end, the natural resources and environmental protection cabinet shall include in its permanent regulatory program:

(a) Environmental protection performance standards to prevent or minimize the adverse environmental effects of surface coal mining and reclamation operations on the land and water resources of the Commonwealth.

(b) A procedure for designating as being unsuitable for mining certain lands because of their topographical, geological, hydrological, climatological, biological, or chemical characteristics or historical, cultural, scientific or aesthetic values.

(c) Procedures and regulations for the allowance of those persons having an interest which is or may be adversely affected to have the opportunity to be heard at every significant or critical part of the administrative and judicial process, including, but not limited to, the permit review and issuance process, the general enforcement process and hearings incident thereto, and the rulemaking procedures conducted by the cabinet; and procedures and regulations for persons having a valid legal interest which is or may be adversely affected by the setting, release, and inspection of bonds to have an opportunity to be heard at every significant or critical part of the administrative and judicial process relating to bonds. Such regulations shall provide reasonable procedures for notice and an opportunity to be heard, access to minesites, access to records, and other reasonable procedures to accomplish the purposes of this chapter. *The duty of care for persons accompanying authorized representatives of the cabinet during inspections shall be upon the cabinet.*

(d) Procedures for the administrative and judicial review of all actions of the cabinet to administer and enforce the provisions of this chapter, including the award of costs and expenses (including attorney's fees and expert witness fees) by the cabinet or the court.

(e) Plans and procedures for the reclamation and restoration of land and water resources affected by mining which have been abandoned or inadequately reclaimed to the standards imposed by this section and for which no bond is held or legal obligation to reclaim continues. Such plan shall include provisions for the imposition of liens for necessary reclamation expenditures made on private property.

(f) Procedures for the assumption of the small operator assistance program pursuant to the surface mining control and reclamation act of 1977 (PL 95-87). The cabinet shall assume and implement that program and apply for and administer funds as may be provided pursuant to that act and such state funds as may be provided for the program.

(3) In addition to any other authority, power and duty vested in it by law, the cabinet shall have and exercise broad authority, power and duty to:

(a) Require those persons who wish to engage in surface coal mining and reclamation operations to submit application for a permit from the cabinet to conduct such operations, and to include in that application all information required by the cabinet pertaining to that operation.

(b) Issue, deny, or modify under such conditions as the cabinet may prescribe, permits to conduct surface coal mining and reclamation operations within the Commonwealth.

(c) Enter and inspect any permitted surface coal mining and reclamation operation or any known or suspected unpermitted mining operation for the purpose of ascertaining compliance with any provision of this chapter or of the permit.

(d) Order the cessation of mining activities, and if necessary impose affirmative abatement obligations, upon the operator when, upon inspection, the cabinet determines that this section or any permit condition is being or has been violated so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth.

(e) Order an operator to comply with the requirements of this section or his permit if inspection reveals a violation of the conditions of his permit or of any provision of this section.

(f) Order an operator to appear and show cause why his permit should not be suspended or revoked and his bond forfeited if the cabinet determines that the operator or the permitted operation has a pattern of violations of this section or permit conditions, and has wilfully violated this section or permit conditions or a pattern of violations exists and that such violations are caused by the permittees' unwarranted failure to comply with this section or permit conditions.

(g) Require, increase, release or decrease, under such conditions as the cabinet may prescribe reclamation performance bonds and cause the forfeiture and collection of those bonds where the permittee has abandoned the operation or for which the permit under which the bond was given has been revoked or has expired without the required reclamation.

(h) To administratively impose, in lieu of those civil penalties provided for in KRS 350.990, civil penalties of up to five thousand dollars ($5,000) per day for violations of permit conditions, this section, or any orders of the cabinet and enforce the administrative assessment of such penalties by initiating civil action in the Franklin Circuit Court or in any court having jurisdiction of the defendant.

(i) Conduct hearings and make investigations of any matter relating to the regulation of surface coal mining and reclamation operations, and provide for the assessment and payment of civil penalties including the placement of proposed civil penalty assessments into an escrow account prior to a contest on the amount of the assessment, consistent with the process of law.

(j) Provide for variances or exceptions consistent with KRS 350.450 from or in addition to mining performance standards, recognizing the specific characteristics inherent in:

1. Steep slope mining;

2. Mountaintop removal;

3. Relatively low acreage disturbance or annual coal production;

4. Prime farmland mining as defined by the United States department of agriculture, and to provide for other variances where land uses and watersheds will be improved; and

5. Post-mining uses different from and as beneficial as the pre-mining uses.

(k) Receive and expend funds or aid from whatever source to accomplish the purposes of this chapter.

(l) Propose and promulgate regulations to accomplish the purposes of this section.

(4) The cabinet shall not promulgate regulations which are inconsistent with the surface mining control and reclamation act of 1977 (PL 95-87).

(5) Any person who violates a provision of this section or the regulations promulgated pursuant thereto shall be subject to those penalties and remedies set forth in KRS 350.990 except as provided for in subsection (3)(h) herein.

Section 4. KRS 350.405 is amended to read as follows:

(1) The operator shall restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicant's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of federal, state, or local law.

(2) Roads shall be reclaimed according to regulations promulgated by the cabinet, but the cabinet shall approve retention of a road as suitable for the approved post mining land use if the property owner desires.

Section 5. KRS 350.440 is amended to read as follows:

The operator shall place all excess spoil material resulting from surface coal mining and reclamation operations pursuant to this chapter in the following manner:

(1) Spoil is transported and placed in a controlled manner in position for concurrent compaction (where advisable) and in such a way as to assure mass stability and to prevent mass movement;

(2) The areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(3) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(4) The disposal area does not contain springs, natural watercourses, or wet-weather seeps unless lateral drains are constructed from the wet area to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(5) If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the cabinet *with the concurrence of a cabinet engineer,* the spoil could be placed in compliance with all the requirements of this chapter and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(6) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed;

(7) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(8) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(9) All other provisions of this chapter are met.

SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

All underground mining activities shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines predating the permit which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the cabinet.

The Committee Substitute to **HB 651** is as follows:

HB 651, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned

or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the natural resources and environmental protection cabinet;

(11) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "Incidental boundary revisions" are those which:

(a) Constitute a relatively small percentage of the initial permit acreage;

(b) Are contiguous with the permit acreage;

(c) Are within the same watershed as the initial permit acreage;

(d) Are clearly required for the orderly and continuous mining operation;

(e) Cover the same coal seams as in the permit;

(f) Would only involve lands for which the hydrologic and geologic data and the probable hydrologic consequences analysis contained in the permit are applicable to the proposed incidental boundary revision;

(g) Would not involve lands on which mining is prohibited or limited pursuant to KRS 350.085 (unless the appropriate waivers have been obtained), and land designated as unsuitable for mining, or any properties eligible for listing on the National Register of Historic Places;

(h) Would not involve any of the special categories of mining listed in 30 CFR Part 785 (e.g., prime farmland, alluvial valley floors, and coal preparation plants) unless the approved permit already includes the relevant category;

(i) Would not constitute a change in the method of mining;

(j) Would be reclaimed in conformity with the initial reclamation plan; and,

(k) For the purpose of this section, incidental boundary changes are described as follows: surface mining operations shall be allowed ten percent (10%) of the original permitted acreage up to twenty (20) acres. Underground operations shall be allowed ten percent (10%) of the original permitted acreage of the underground workings but for underground surface disturbances (e.g., face-up areas and haul roads) only up to 7.5 acres.

(l) The cumulative acreage added by successive revisions shall not exceed the above limitations.

Section 2. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the person or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. *If an operator feels reasonable time has not been granted for remedial action, he may request and the cabinet shall grant an on-site inspection and review of the violation by supervisory personnel of the cabinet.* If any person or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to said operator or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. Such order shall require the person or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable regulations for the implementation of this section. Such notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the person or operator has failed to comply with this chapter or the regulations or orders of the cabinet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. *If an operator feels a reasonable time has not been granted for remedial action, then he may request and the cabinet shall grant an on-site inspection and review of the violation by supervisory personnel of the cabinet.* If the person or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, except as provided in subsection (2) of this section and in KRS 350.110, provided that failure to attend a hearing shall be excused for good cause shown.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the secretary shall give notice to the attorney general, who shall collect the forfeiture. Bond forfeitures collected in cases where the surface rights have been severed from the mineral rights shall be paid to the surface owner for the purpose of reclaiming in accordance with the provisions of this chapter the same area of land included under the bond; provided, that no payment shall be made until the reclamation has been accomplished in the manner required by the cabinet, to the extent of available forfeited funds, and no payment shall be made beyond the actual cost of reclamation. Provided further, that this section shall not apply in cases where the owner cannot be located, or does not desire or is unable to accomplish the work in the manner required by the cabinet.

(3) An operator or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that such violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no operator or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator or person has paid such sum as the cabinet finds is adequate to reclaim such lands. The cabinet shall not issue any permits to or allow future operations by any operator or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(4) In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of such condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise

to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(5) Each provision of this section shall be interpreted and applied consistently with due process of law.

(6) The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to regulations promulgated by the cabinet.

Section 3. KRS 350.465 is amended to read as follows:

(1) The provisions of this section and regulations promulgated pursuant thereto (except with regard to the mining of clay, limestone, sand, gravel, fluorspar, stone, and rock asphalt) shall apply to the regulation of all surface coal mining and reclamation operations in the Commonwealth in the event that the Commonwealth receives from the United States department of interior and pursuant to the surface mining control and reclamation act of 1977 (PL 95-87) approval of a permanent state regulatory program, and the Commonwealth has promulgated regulations pursuant to this section.

(2) The natural resources and environmental protection cabinet is hereby authorized and directed to prepare, develop and promulgate a comprehensive permanent regulatory program for the implementation of the surface mining control and reclamation act of 1977 (PL 95-87) for the purpose of accepting and administering primary enforcement responsibilities pursuant to that act. The implementation of this section shall contain procedures similar to the surface mining control and reclamation act of 1977 (PL 95-87) and shall require surface coal mining operation performance standards no more stringent than provided for in that act. Nothing herein shall be construed to empower the cabinet to adopt a regulatory program in conflict with the policy and purposes of the surface mining control and reclamation act of 1977 (PL 95-87). To that end, the natural resources and environmental protection cabinet shall include in its permanent regulatory program:

(a) Environmental protection performance standards to prevent or minimize the adverse environmental effects of surface coal mining and reclamation operations on the land and water resources of the Commonwealth.

(b) A procedure for designating as being unsuitable for mining certain lands because of their topographical, geological, hydrological, climatological, biological, or chemical characteristics or historical, cultural, scientific or aesthetic values.

(c) Procedures and regulations for the allowance of those persons having an interest which is or may be adversely affected to have the opportunity to be heard at every significant or critical part of the administrative and judicial process, including, but not limited to, the permit review and issuance process, the general enforcement process and hearings incident thereto, and the rulemaking procedures conducted by the cabinet; and procedures and regulations for persons having a valid legal interest which is or may be adversely affected by the setting, release, and inspection of bonds to have an opportunity to be heard at every significant or critical part of the administrative and judicial process relating to bonds. Such regulations shall provide reasonable procedures for notice and an opportunity to be heard, access to minesites, access to records, and other reasonable procedures to accomplish the purposes of this chapter. *The cabinet shall exercise due care for persons accompanying authorized representatives of the cabinet during inspections.*

(d) Procedures for the administrative and judicial review of all actions of the cabinet to administer and enforce the provisions of this chapter, including the award of costs and expenses (including attorney's fees and expert witness fees) by the cabinet or the court.

(e) Plans and procedures for the reclamation and restoration of land and water resources affected by mining which have been abandoned or inadequately reclaimed to the standards imposed by this section and for which no bond is held or legal obligation to reclaim continues. Such plan shall include provisions for the imposition of liens for necessary reclamation expenditures made on private property.

(f) Procedures for the assumption of the small operator assistance program pursuant to the surface mining control and reclamation act of 1977 (PL 95-87). The cabinet shall assume and implement that program and apply for and administer funds as may be provided pursuant to that act and such state funds as may be provided for the program.

(3) In addition to any other authority, power and duty vested in it by law, the cabinet shall have and exercise broad authority, power and duty to:

(a) Require those persons who wish to engage in surface coal mining and reclamation operations to submit application for a permit from the cabinet to conduct such operations, and to include in that application all information required by the cabinet pertaining to that operation.

(b) Issue, deny, or modify under such conditions as the cabinet may prescribe, permits to conduct surface coal mining and reclamation operations within the Commonwealth.

(c) Enter and inspect any permitted surface coal mining and reclamation operation or any known or suspected unpermitted mining operation for the purpose of ascertaining compliance with any provision of this chapter or of the permit.

(d) Order the cessation of mining activities, and if necessary impose affirmative abatement obligations, upon the operator when, upon inspection, the cabinet determines that this section or any permit condition is being or has been violated so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth.

(e) Order an operator to comply with the requirements of this section or his permit if inspection reveals a violation of the conditions of his permit or of any provision of this section.

(f) Order an operator to appear and show cause why his permit should not be suspended or revoked and his bond forfeited if the cabinet determines that the operator or the permitted operation has a pattern of violations of this section or permit conditions, and has wilfully violated this section or permit conditions or a pattern of violations exists and that such violations are caused by the permittees' unwarranted failure to comply with this section or permit conditions.

(g) Require, increase, release or decrease, under such conditions as the cabinet may prescribe reclamation performance bonds and cause the forfeiture and collection of those bonds where the permittee has abandoned the operation or for which the permit under which the bond was given has been revoked or has expired without the required reclamation.

(h) To administratively impose, in lieu of those civil penalties provided for in KRS 350.990, civil penalties of up to five thousand dollars ($5,000) per day for violations of permit conditions, this section, or any orders of the cabinet and enforce the administrative assessment of such penalties by initiating civil action in the Franklin Circuit Court or in any court having jurisdiction of the defendant.

(i) Conduct hearings and make investigations of any matter relating to the regulation of surface coal mining and reclamation operations, and provide for the assessment and payment of civil penalties including the placement of proposed civil penalty assessments into an escrow account prior to a contest on the amount of the assessment, consistent with the process of law.

(j) Provide for variances or exceptions consistent with KRS 350.450 from or in addition to mining performance standards, recognizing the specific characteristics inherent in:

1. Steep slope mining;

2. Mountaintop removal;

3. Relatively low acreage disturbance or annual coal production;

4. Prime farmland mining as defined by the United States department of agriculture, and to provide for other variances where land uses and watersheds will be improved; and

5. Post-mining uses different from and as beneficial as the pre-mining uses.

(k) Receive and expend funds or aid from whatever source to accomplish the purposes of this chapter.

(l) Propose and promulgate regulations to accomplish the purposes of this section.

(4) The cabinet shall not promulgate regulations which are inconsistent with the surface mining control and reclamation act of 1977 (PL 95-87).

(5) Any person who violates a provision of this section or the regulations promulgated pursuant thereto shall be subject to those penalties and remedies set forth in KRS 350.990 except as provided for in subsection (3)(h) herein.

Section 4. KRS 350.405 is amended to read as follows:

(1) The operator shall restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicant's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of federal, state, or local law.

(2) Roads shall be reclaimed according to regulations promulgated by the cabinet, but the cabinet shall approve retention of a road as suitable for the approved post mining land use if the property owner desires.

Section 5. KRS 350.440 is amended to read as follows:

The operator shall place all excess spoil material resulting from surface coal mining and reclamation operations pursuant to this chapter in the following manner:

(1) Spoil is transported and placed in a controlled manner in position for concurrent compaction (where advisable) and in such a way as to assure mass stability and to prevent mass movement;

(2) The areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(3) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(4) The disposal area does not contain springs, natural watercourses, or wet-weather seeps unless lateral drains are constructed from the wet area to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(5) If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the cabinet *with the concurrence of a cabinet engineer*, the spoil could be placed in compliance with all the requirements of this chapter and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(6) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed;

(7) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(8) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(9) All other provisions of this chapter are met.

SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) After the issuance of a permit by the cabinet, any use of the property so permitted or the surrounding property which would otherwise prohibit mining pursuant to KRS 350.085, shall not prohibit mining under the issued permit or any renewal thereof by the permittee or its successors or assigns.

(2) Unless stated to the contrary in the waiver, once a waiver of the prohibitions prescribed in KRS 350.085 is obtained, no further waivers shall be required by the cabinet of the permittee, its successors or assigns, for an amendment to or renewal of the permit, unless there is additional proposed surface mining disturbances within the prohibited distances as set forth in KRS 350.085.

A Free Conference Committee Report was filed on **SB 2.**

Motions, Petitions and Communications

Representative Ackerson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ackerson moved the adoption of the following **HR 112**:

HR 112. A RESOLUTION honoring Heather Collier, 1988 Kentucky Junior Miss.

WHEREAS, Heather Collier is a senior at Eastern High School in Louisville, Kentucky; and

WHEREAS, Heather Collier has participated in the Eastern High School advanced program which is designed for the academically gifted; and

WHEREAS, Heather Collier is a member of the National Honor Society and Beta Club; and

WHEREAS, Heather Collier is a member of the Spanish Club, Future Business Leaders of America and a varsity cheerleader; and

WHEREAS, on January 10, 1988, Heather Collier was selected the 1988 Kentucky Junior Miss; and

WHEREAS, in June, 1988, Heather Collier will be participating in the National Junior Miss Pageant in Alabama; and

WHEREAS, Heather Collier is the daughter of Dr. and Mrs. Ronald Collier of Louisville, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to have Heather Collier represent the Bluegrass State in the National Junior Miss Pageant and extends its best wishes to Heather Collier in all her endeavors.

Section 2. That when the House of Representatives adjourns this day, Thursday, February 25, 1988, it does so in honor of Heather Collier.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Ms. Heather Collier, 9216 Marlboro Circle, Louisville, Kentucky, 40222.

HR 112 was adopted by voice vote.

Representative J. Harper moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative J. Harper moved the adoption of Legislative Citation No. 70. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds and commends of the

Bullitt County Extension Homemakers for your interest and participation under the able leadership of Ginger McMahon in homemaking, family and community activities, and in supporting the valued concept still prevalent in America that the social structure of the family in harmony and cooperative effort is the basis building block of our society.

The House of Representatives joins Representative John Harper in commending and applauding you and the Bullitt County Extension Homemakers for the dedication and participation in such an outstanding and worthwhile activity. (Sponsored by Representative J. Harper)

Representative Noe moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noe moved that he be recorded as voting "yea" on **HB 656**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 173**, by Representative Long:

Amend printed copy of **HB 173** on page 3, line 21, after "the" insert "*last*" and place brackets around and strike through "first".

Floor Amendment No. 1 to Committee Substitute to **HB 283**, by Representative Rapier:

Amend printed copy of HCS to **HB 283** on page 8, line 5, after the word "renewed" by deleting the word "*of*" and inserting the word "*or*" in lieu thereof;

on page 13, line 2, after the word "*plate*" by inserting the following: "*, decal or registration certificate*";

on page 13, line 7, after the word "are" by inserting the word "*delinquent*" and by placing an opening bracket before the word "due" and a closing bracket after the word "paid" and striking through the language between the brackets;

on page 13, line 8, after the word "*plate*" by inserting the following: "*, decal or registration certificate*"; and

on page 16, lines 15 through 24, by deleting said lines in their entirety and inserting the following language in lieu thereof:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

The finance and administration cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of this Act and, further, shall reimburse each state agency involved for all on-going operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of this Act.".

Floor Amendment No. 2 to Committee Substitute to **HB 283**, by Representative Rapier:

Amend printed copy of HCS to **HB 283** on page 16, line 25, after the word "through" by deleting the number "9" and inserting the number "10" in lieu thereof.

on page 17, line 16 after the word "immediately" by inserting "*upon passage and approval by the governor*".

Floor Title Amendment to **HB 283**, by Representative Rapier:

Amend printed copy of **HB 283** by changing the title to read: "AN ACT relating to motor vehicle taxes and providing for enforcement thereof and declaring an emergency."

The Clerk announced the following meetings:

The Committee on Rules, State Reception Room, upon adjournment.

A Majority Caucus, Room 109, upon adjournment.

The Committee on Banking and Insurance, February 26, 1988, Room 116, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 26, 1988.

On the roll call the vote was yeas 72-Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Barrows, Blandford, Blevins, J. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hoover, Jackson, Johnson, A. Jones, T. Jones, Kerr, Layman, Lefevers, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 2-Bronger, LeMaster

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 26, 1988

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Brother Joe Adams, Bardstown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Barrows, Scorsone and Walker.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 25, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 222**, **SB 258**, **SJR 42**, **HJR 60** with Senate Amendments, **HB 429**, **HB 430**, **HB 432** and **HB 449**.

Message received on **SB 2**: The Senate has appointed Senators Bradley, Clouse and Haering to serve on a Free Conference Committee on **SB 2**.

Introduction of Bills and Resolutions

HB 824, by Representatives R. Smith, Curd and Castleman: AN ACT relating to highways.

HB 825, by Representatives Barrows and Hancock: AN ACT relating to children born out of wedlock.

HB 826, by Representatives Strong and Altman: AN ACT relating to the state tree.

HB 827, by Representatives Farrow, Turner and Clarke: AN ACT relating to the presidential preference primary election.

HB 828, by Representative Callahan: AN ACT relating to property taxation.

HB 829, by Representatives Northup, Mason, Preston and Reinhardt: AN ACT relating to testing for acquired immune deficiency syndrome.

HB 830, by Representative Lear: AN ACT relating to gratuities.

HB 831, by Representative Lear: AN ACT relating to crimes and punishments.

HB 832, by Representative Lear: AN ACT relating to traffic regulations.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 799**, **HB 800**, **HB 801**, **HB 823**.

Banking and Insurance: **SB 220**, **HB 814**, **HB 804**.

Business Organizations and Professions: **HB 806**, **HB 802**.

Cities: **HB 808**, **HB 821**, **HB 822**, **HB 819**.

Counties and Special Districts: **HB 820**.

Education: **HB 812**, **HB 818**.

Health and Welfare: **HB 807**, **HB 815**, **HB 816**.

Judiciary-Civil: **HB 798**, **HB 803**, **HB 805**.

Judiciary-Criminal: **HB 813**.

Labor and Industry: **HB 809**.

Natural Resources and Environment: **HB 817**.

State Government: **SB 3**, **HCR 114**, **HB 810**, **HB 811**.

Report of Committees

The Committee on Rules reported **HB 357**, **HB 687**, **SB 38**, **HB 324**, **HB 503**, **HB 548**, **HB 600**, **HB 625** and **HB 654** have been posted for passage in Orders of the Day, February 29, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Orders of the Day, February 29, 1988: **HB 442**, **HB 596**, **HB 616**

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 653**, **HB 209**.

The Committee on Banking and Insurance reported **HB 652**, with Committee Substitute attached thereto, with the expression of opinion that same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 652** is as follows:

HB 652. AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.020 is amended to read as follows:

(1) The commissioner may prescribe, amend and repeal such rules, regulations, forms, *policy statements* and orders as are necessary to interpret and carry out the provisions and intent of this chapter. He shall devise a seal for his department, a description of which, together with an impression thereof and a certificate of approval by the governor, shall be filed in the office of the secretary of state. The seal shall be renewed whenever necessary.

(2) The commissioner of financial institutions and his deputies shall be allowed their necessary traveling and other expenses of conducting their office.

(3) The commissioner of financial institutions may prescribe, amend and repeal regulations *and policy statements* authorizing banks to engage in any banking activity in which such banks could engage were they operating as national banks at the time such authority is granted, provided that this subsection shall not apply to activities which are expressly prohibited or limited by the statutes of the Commonwealth.

(4) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of KRS 287.105 relative to the leasing of motor vehicles, or of KRS 287.180 relative to the establishment of branches.

Section 2. KRS 287.061 is amended to read as follows:

(1) Whenever an application for approval of a corporation or facility provided for by KRS 287.050. 287.180, or 287.185 is made, notice of such application shall be published.

(2) Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party *may inspect all public records relating to the application to the extent provided by KRS 61.870 to 61.884* [~~shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to said application~~].

(3) The commissioner may cause a hearing to be held if, in his judgment, such hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances. Regardless of whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. Such advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to make written comments on the application shall so indicate to the department in writing within twenty (20) days after publication of the notice.

Section 3. KRS 287.070 is amended to read as follows:

(1) *The minimum capital stock of any bank incorporated in this state after the effective date of this Act shall be three hundred thousand dollars ($300,000)* [~~The capital stock of any financial institution mentioned in KRS 287.040 organized prior to May 31, 1938 shall be maintained in the amount required by the law in effect on May 30, 1938~~].

(2) The minimum capital stock of any [~~bank or~~] trust company *incorporated in this state after the effective date of this Act shall be five hundred thousand dollars ($500,000)* [~~organized after May 30, 1938 shall be as follows, according to the city in which it is located:~~

~~Cities of up to 7,999 population~~	$ 25,000
Cities of 7,999 to 19,999 population	$ 50,000
Cities of 20,000 to 100,000 population	$100,000
Cities of over 100,000 population	$200,000]

(3) The minimum capital stock of *any interim or phantom bank which is created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company or other corporate reorganization or recapitalization shall be three thousand dollars ($3,000)* [~~any combined bank and trust company, combined bank and real estate title insurance company or combined trust and real estate title insurance company or combined bank trust and real estate title insurance company, organized after May 30, 1938, shall be not less than twice the amount stated in subsection (2) of this section~~].

(4) The capital stock of any financial institution mentioned in KRS 287.040 incorporated prior to the effective date of this Act shall be maintained in the amount required by the laws in effect on the date the institution was incorporated.

Section 4. KRS 287.095 is amended to read as follows:

(1) *Before* [~~At least sixty (60) days prior to~~] a change *occurs* [~~occurring~~] in the outstanding voting *securities* [~~stock~~] of any bank or trust company which will result in control or in a change in the control of the bank or trust company, *each* [~~the~~] proposed acquiring party [~~or parties~~] shall *file a report with* [~~report such facts to~~] the commissioner *unless the party is, or as a result of the change of control will become, a bank holding company as defined in KRS 287.900. No proposed change which is required to be reported to the commissioner pursuant to this subsection may be effected unless and until the commissioner approves the change. The commissioner shall approve the proposed change in control within sixty (60) days after receipt of the notice* [~~for approval~~] unless the commissioner finds that:

(a) The terms of the acquisition are not in accordance with the laws of this state; or

(b) The financial condition, or the competence, experience and integrity of the acquiring party or parties are such as will jeopardize the financial stability of the bank; or

(c) The public convenience and advantage will not be served by the acquisition.

(2) As used in subsection (1) of this section, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank or trust company. A change in ownership of voting *securities* [~~stock~~] which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of *twenty-five percent (25%) or more* [~~less than ten percent (10%)~~] of the outstanding voting *securities, or the power to vote ten percent (10%) or more of the outstanding voting securities if a stockholder or affiliated group of stockholders is the largest stockholder after the transaction,* [~~stock~~] shall [~~not~~] be considered a change of control. If there is any doubt as to whether a change in the outstanding voting *securities* [~~stock~~] is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the commissioner.

(3) *If* [~~Whenever~~] a bank makes a loan or loans, secured, or to be secured, by twenty-five percent (25%) or more of the outstanding voting *securities* [~~stock~~] of a bank, the president or other chief executive officer of the lending bank shall promptly report *the* [~~such~~] fact to the commissioner upon obtaining knowledge of *the* [~~such~~] loan or loans, except that no report need be made *if* [~~in those cases where~~] the borrower has been the owner of record of the *securities* [~~stock~~] for a period of one (1) year or more, or the *securities* [~~stock is~~] that of a newly organized bank prior to its opening.

(4) The reports required by subsections (1)[~~, (2)~~] and (3) of this section shall contain the following information to the extent that it is known by the person making the report:

(a) The number of shares involved;

(b) The names of the sellers (or transferors);

(c) The names of the purchasers (or transferees);

(d) The names of the beneficial owners if the shares are registered in another name;

(e) The purchase price;

(f) The total number of shares owned by the seller (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction; and in the case of a loan:

1. The name of the borrower;

2. The amount of the loan; and

3. The name of the bank issuing the *securities* [~~stock~~] securing the loan and the number of shares securing the loan.

In addition to the foregoing, such reports shall contain such other information as may be available to inform the commissioner of the effect of the transaction upon control of the bank or trust company whose *securities are* [~~stock is~~] involved.

(5) Whenever such a change as described in subsection (1) of this section occurs, each bank or trust company shall report promptly to the commissioner any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

Section 5. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish[~~, within the city in which either the principal office or an existing branch office which has been annexed into the city or acquired by merger is located and, subject to the limitation hereinafter imposed,~~] within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such branch based upon the financial and managerial impact of the branch on the bank establishing the branch. No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than one hundred thousand dollars ($100,000) shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:

1. An unincorporated area or in a city of 7,999 population or less $100,000

2. City with population of 8,000 to 19,999 .... $200,000

3. City with population of 19,999 and over one (1) branch may be authorized for every two hundred fifty thousand dollars ($250,000) of capital and surplus.

Said population is to be determined by the last census or any future census of the United States;

(b) No *branch shall be established outside the county within which the principal office of the bank is located* [~~such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city or acquired by merger is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof~~];

(c) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for whatever period of time he deems to be necessary; and

(d) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more. The bank which does not survive the merger must surrender its charter.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to discontinue operation may be required to give notice of the date when such operation will cease.

Section 6. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but in no event shall the indebtedness or obligation of any person exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.

(2) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated. [~~Such indebtedness, which term includes granting a line of credit, or obligation, is permitted if:~~

~~(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and~~

~~(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank or trust company and the interested party has abstained from participating directly or indirectly in the voting provided, that approval by the board of directors under this paragraph is not required:~~

~~1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or~~

~~2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.~~

~~In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection.~~

~~(3) For purposes of subsection (2) of this section:~~

~~(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar open-end credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;~~

~~(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and~~

~~(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in concert with one (1) or more persons:~~

~~1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;~~

~~2. Controls in any manner the election of a majority of the directors of the entity or committee; or~~

~~3. Has the power to exercise a controlling influence over the management or policies of the entity or committee.~~]

(3)[~~(4)~~] In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(4)[~~(5)~~] Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(5)[~~(6)~~] The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

Section 7. KRS 287.290 is amended to read as follows:

In the case of obligations to banks and trust companies, the limitations and restrictions of KRS 287.280 shall not apply to:

(1) Obligations of the United States or of the state of Kentucky;

(2) Obligations guaranteed as to principal and interest by the United States or the state of Kentucky; or all obligations to the extent secured or covered by guarantees or by commitments or agreements to take over or to purchase the same made by any federal reserve bank or by the United States or by any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or consolidated bonds issued by or for federal land banks or consolidated debentures issued by or for federal intermediate credit banks under the act of congress known as the "Federal Farm Loan Act," and amendments thereto; or consolidated debentures issued by or for banks for cooperatives under the act of congress known as the "Farm Credit Act of 1933," and amendments thereto; or obligations issued by the federal home loan banks; or obligations which are insured by the federal housing administrator pursuant to title 12, section 12, section 1713, United States Code, if the debentures to be issued in payment of such insured obligations are guaranteed as to the principal and interest by the United States; or obligations of national mortgage associations; [~~except that the commissioner may make, alter and repeal regulations respecting the total liabilities of any person which:~~

~~(a) Are secured by direct obligations of the United States or the state of Kentucky, and~~

~~(b) Have a face value at least equal to the amount of such liabilities, and~~

~~(c) Will mature within five (5) years from the date such liabilities were incurred.~~]

(3) Obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized by KRS 68.320 and 160.540*;*

(4) Loans or extensions of credit fully secured by:

(a) General obligations of the state of Kentucky or any political subdivision or agency thereof or of any county, city or urban-county government;

(b) Bonds, notes, certificates of indebtedness, or treasury bills of the United States or such other instruments as are fully guaranteed as to principal and interest by the United States; or

(c) Segregated deposit accounts or certificates of deposit in the lending bank or trust company; or

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States. This exception may apply to only that portion of a loan or extension of credit that is covered by the federal guarantee or commitment.

Section 8. KRS 287.440 is amended to read as follows:

(1) The commissioner shall appoint a sufficient number of examiners [~~and assistant examiners~~] to examine all institutions coming under the supervision of the department. A salary schedule for examiners [~~and assistant examiners~~] shall be prepared by the commissioner and presented to the secretary of the finance and administration cabinet for approval. In the event an advisory state banking board is established by law, the appointment and compensation of examiners [~~and assistant examiners~~] shall be with the advice of such board.

(2) The commissioner, the deputy commissioner, *the director of the division of banking* and each examiner shall take the constitutional oath of office.

(3) *No employe of the department* [~~Neither the commissioner, nor the deputy commissioner, nor any examiner or assistant examiner~~] shall *become* [~~be~~] indebted directly or indirectly either as borrower, indorser, surety or guarantor, to any bank or trust company under *the department's* [~~his~~] supervision *except upon the same terms and conditions which any other person may become indebted or obligated* [~~or subject to his examination~~], nor [~~shall he~~] be a director, officer or employe in such bank or trust company[~~, nor engage or become interested in the sale of securities as a business or in the negotiation of loans for others~~]. *Employes of the department shall report any such indebtedness to the commissioner in writing.*

(4) No person shall be assigned to examine the affairs of any bank or trust company *to which he has become indebted or* in a county in which he holds stock in either a state or national bank or trust company.

Section 9. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to *investigation* [~~inspection~~] by the commissioner or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies.

(2) The commissioner, deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.

(4) The commissioner may examine or inspect the records of any affiliate which has engaged in covered transactions with the bank. The terms "affiliate" and "covered transaction" in this subsection have the meanings contained in Section 23A of the Federal Reserve Act, 12 U.S.C. Section 371C, as amended.

Section 10. KRS 287.470 is amended to read as follows:

(1) Reports of examination of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company, [~~or~~] employe of the department, *or employe of a state or federal regulatory authority* shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the federal deposit insurance corporation, the federal reserve board and the office of the comptroller of the currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 11. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation and to the approval of applications for branch banks *and change of location for a branch bank or principal office*, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of such banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule

shall be at such rates as the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs (other than costs of examination) incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the federal reserve system, federal deposit insurance corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, [~~including institutions in liquidation under the supervision of the commissioner,~~] shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

Section 12. KRS 287.900 is amended to read as follows:

(1) For purposes of this section and KRS 287.905:

(a) "Bank" means any institution organized under this chapter, the banking laws of another state or the National Bank Act, as amended, to do a banking business. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years;

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. section 1841, et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation; and

(d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all banks to their respective supervisory authorities.

(e) A bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest but it shall be subject to the regulatory authority of the department.

(f) A bank which is the result of a merger, consolidation or conversion shall be deemed to have been in existence since the earliest date any of the constitutent institutions to the merger, consolidation or conversion came into existence.

(g) A bank which is organized for the purpose of acquiring substantially all the assets and assuming substantially all of the liabilities of a bank, savings and loan association, savings bank, or the main office and one (1) or more branch offices thereof shall be deemed to have been in existence since the bank, savings and loan association, savings bank, or the oldest of such offices, respectively, came into existence.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time

of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than *twenty percent (20%)* [~~fifteen percent (15%)~~] of the total deposits in all banks in this state as reported in the most recent year-end reports made by the banks to their respective supervisory authorities which are available at the time of the acquisition.

(4) (a) During the period expiring five (5) years after July 13, 1984, no individual or company wherever located may, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a bank or bank holding company if as a result thereof such individual or company would acquire control of more than three (3) banks in this state during any twelve (12) month period;

(b) Provided, however, a bank holding company wherever located, may acquire control of a bank holding company which has its principal place of business in this state and which controls more than three (3) banks located in this state under conditions approved by the commissioner which would require the following:

1. That an acquisition made under this subsection shall be limited to only one (1) acquisition;

2. That the banks acquired in excess of the three (3) bank per year limitation included in this acquisition shall be counted against future acquisitions during the remaining five (5) year period provided in this subsection; and

3. That the total bank acquisitions by a bank holding company shall not exceed in the aggregate fifteen (15) banks during the five (5) year period provided in this subsection.

(5) The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

(6) (a) Any bank holding company having its principal place of business in a state *other than* [~~which is contiguous to~~] this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.[~~;~~]

[~~(b) From and after two (2) years after July 13, 1984, any bank holding company having its principal place of business in a state other than a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section; and~~

~~(c) For the purposes of this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.~~]

(7) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

(8) A depositor with an account at a bank located in this state and controlled by a bank holding company may make deposits and withdrawals on its account at any of the bank holding company's affiliated banks located

in this state.

Section 13. KRS 287.905 is amended to read as follows:

(1) Any bank holding company which proposes to acquire control of a bank chartered in this state, *any* [~~or a~~] bank holding company which *controls* [~~includes~~] a bank chartered in this state, *or any bank holding company having its principal place of business in this state that controls a state chartered bank which proposes to acquire control of a bank or bank holding company located in another state,* shall concurrently file with the commissioner copies of the application filed with the federal reserve board under applicable federal law. The commissioner shall approve such acquisition within ninety (90) days of acceptance of a complete application if he finds that:

(a) The terms of the acquisition are in accordance with the laws of this state;

(b) The financial condition, or the competence, experience and integrity of the acquiring company or its principals are such as will not jeopardize the financial stability of the acquired bank or bank holding company;

(c) The public convenience and advantage will be served by the acquisition; and

(d) No federal regulatory authority whose approval is required has disapproved the transaction because it would result in a monopoly or substantially lessen competition.

(2) A non-refundable fee shall accompany each application and shall be set by the commissioner in accordance with KRS 287.480.

(3) The commissioner may examine or elect to participate in a joint examination, with the applicable federal or state regulatory agency, of any holding company or nonbank subsidiary of the holding company that controls or is affiliated with a state-chartered bank.

(4) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to examine an out-of-state bank that is controlled by a Kentucky bank holding company or is controlled by a bank holding company which includes a state-chartered bank, or accept reports of examinations of such out-of-state banks from federal or state regulatory authorities in lieu of conducting examinations.

(5) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to exchange confidential information and reports of examination relating to interstate acquisitions of banks and bank holding companies.

(6) The cost of an examination shall be assessed against and paid by the company examined. The assessment for the examination shall be calculated in the same manner as that used for bank examinations.

Section 14. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200).

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall ct to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner, *director of the division of banking* or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars ($100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars ($1,000).

(9) Each person, bank or trust company that willfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

(10) *If* [~~Whenever~~] any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9) (15), (16), (17), [~~or~~] (18), *(19) or (20)* of this section is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the fine.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars ($1,000) per day for each day such violation continues. The fine shall be assessed by the commissioner by written notice. [~~As used in this subsection, the term "violates" includes any action causing, participating in, counseling,~~

~~aiding or abetting a violation.~~] In determining the amount of the fine the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank *or officer or director thereof who* [~~which~~] violates any provisions of KRS 287.100*(2) or* (10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director *of a bank* who violates the provisions of KRS 287.280(1) *may* [~~and (3) shall~~] be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

(19) Any person who wilfully violates the provisions of KRS 287.095(1) may be fined not more than one thousand dollars ($1,000) per day for each day the violation continues.

(20 Any bank, officer or director thereof or other person who violates any section of KRS Chapter 287 not covered in subsections (1) through (19) of this section, may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

(21) As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cash dispensing machine" means an electronic terminal other than a point-of-sale terminal or full function electronic terminal which dispenses United States currency. An electronic terminal that dispenses only scrip, coupons or similar items is not a cash dispensing machine.

(2) "Customer" means, with respect to a bank, a depositor or borrower of the bank who effects an electronic fund transfer.

(3)"Electronic fund transfer" means any transfer of funds or account information, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape, for the purpose of ordering, instructing, or authorizing a bank to debit or credit one (1) or more customer accounts. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.

(4) "Electronic terminal" means an electronic device through which a customer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines.

(5) "Full function electronic terminal" means an electronic terminal which accepts paper based deposits.

(6) "Paper based deposits" means deposits effected through the transfer or delivery by a customer of paper currency, coin or check, draft or similar paper instrument.

(7) "Point-of-sale terminal" means an electronic terminal which effects a point-of-sale transaction and which does not accept paper based deposits and either dispenses goods or non-banking services or is located on the premises of an enterprise or business engaged in the providing of goods or non-banking services.

(8) "Point of sale transaction" means an electronic fund transfer initiated through a point-of-sale terminal from a customer's account to an account at any bank to effect payment for the purchase of goods or services.

(9) "Public electronic terminal" means an electronic terminal other than a point-of-sale terminal or a telephone which is deployed in a public place for use by members of the general public.

SECTION 16. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (2) of this section, a bank may own, establish, use or share or operate electronic terminals located anywhere within or outside of this state and the electronic terminals shall not be considered branches within the meaning of this chapter.

(2) A bank may use or share, but shall not own or establish, except as the lessor in a financing lease with an unaffiliated lessee, a full-function electronic terminal or cash dispensing machine, located in this state outside of the geographic area within which the bank may establish or operate a branch.

(3) Subject to the provisions of subsections (4), (5) and (6) of this section, a bank may effect electronic fund transfers upon receipt of any order, instruction or authorization to do so from its customers.

(4) A bank shall not accept paper-based deposits initiated at any electronic terminal which is located in this state outside of the geographic area within which the bank may establish or operate a branch.

(5) A bank shall not effect an electronic fund transfer of funds from the account of a customer to an account at another bank initiated at a full-function electronic terminal, cash dispensing machine or public electronic terminal which is located in this state outside the geographic area within which the bank may establish or operate a branch.

(6) A bank shall not effect any of the following types of electronic funds transfers if they are initiated at a point-of-sale terminal located in this state outside the geographic area within which the bank may establish or operate a branch:

(a) The transfer of funds except in connnection with a point-of-sale transaction; or

(b) The dispensing of cash to a customer, except in connection with a point-of-sale transaction.

(7) No later than January 31 of each year, any bank organized under this chapter shall give the commissioner a written report listing any electronic terminal which the bank first used, shared or operated during the preceding year. The report shall set forth the type and location of the electronic terminal and any other information the commissioner may request. If an electronic terminal is established, used, shared or operated by two (2) or more banks, the giving of the report required by or on behalf of any one (1) of the banks, listing all of the banks which have established, used, shared or operated the electronic terminal, shall constitute compliance with this section for all the banks.

(8) Notwithstanding the provisions of this section or any other law, a bank may effect any electronic fund transfer or establish, own, operate, share or use an electronic terminal to the extent allowed national banking associations by the laws of the United States.

SECTION 17. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "trust business" means the exercise of all rights, powers, and duties of a bank or trust company as provided in this chapter, including but not limited to acting as trustee, guardian, executor, administrator, conservator, agent, custodian or arising from having been named or designated as one (1) or more of the foregoing in any will or other writing whenever executed.

(2) If a bank holding company causes an affiliate or subsidiary it controls, which is qualified to conduct trust business in this state, to succeed to part or all of the trust business of any other affiliate or subsidiary, also so qualified in this state, of the same bank holding company, the successor shall act in place of the predecessor with all the rights, powers, and duties which were granted to or imposed on the predecessor.

(3) The rights, powers and duties of the predecessor affiliate or subsidiary remain unimpaired and continue in the successor, from the time of the taking effect of the succession, irrespective of the date when the relation was established, and irrespective of the date of any related trust agreement or of the date of death of any decedent whose estate is being so administered. Nothing done in connection with the succession shall effect a removal, renunciation or resignation from the executorship, trusteeship, or any other fiduciary relationship.

(4) The successor shall notify the commissioner in writing of such succession. This writing shall serve as notice to the department as to the identity of the successor. Furthermore, in all instances where the predecessor was acting pursuant to order of court, the successor shall notify the court in writing of the succession.

Section 18. KRS 291.115 is amended to read as follows:

(1) Stockholders in investment companies shall be liable equally and ratably, and not one for the other, for all contracts and liabilities of the company to the extent of the amount of their stock at par value, in addition to the amount of such stock.

(2) Persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estates in their hands shall be liable the same as the property of other stockholders.

(3) No transfer of stock shall release any such liability existing at the time of the transfer if the action to enforce such liability is commenced within two (2) years from the time of transfer.

(4) The liability of stockholders provided by this section may be enforced as provided in KRS *Chapter 287* [~~287.365~~] for stockholders of banks and trust companies.

Section 19. The following KRS sections are repealed:

287.325 Advertising notice required where not federally insured.

287.360 Double liability for certain stock issued prior to May 16, 1936.

287.365 Enforcement of stockholders' liability.

Calendar

HB 573, **HB 592**, **HB 19**, **HB 515**, **SB 175**, **HB 487**, **HB 489**, **HB 491**, **HB 612**, **HB 613**, **HB 662**, **HCR 92**, **SB 139**, **SB 188**, **SB 214**, **SCR 45**, **HB 570**, **HB 593**, **HB 633**, **HB 447**, **HB 501**, **HB 527**, **HB 530**, **HB 194**, **HB 495**, **HB 608** and **HB 651** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 670 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative P. Richardson moved the adoption of the following **HR 111**:

HR 111. A RESOLUTION of appreciation to Brother Joe Adams and Thomas Nelson Publishing Company.

WHEREAS, Brother Joe Adams has kindly distributed "New King James Bibles" to the Representatives and Senators of the Commonwealth of Kentucky; and

WHEREAS, these bibles were donated by Thomas Nelson Publishing Company under the leadership of Sam Moore, President and Chairman of the Board, and Kathy Chambers, Publicist; and

WHEREAS, these acts of kindness are gratefully appreciated by the legislators of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives sincerely thanks Brother Joe Adams and the Thomas Nelson Publishing Company

Section 2. That this honorable body commends Brother Joe Adams and Thomas Nelson Publishing Company.

Section 3. That the Clerk of the House is hereby directed to give a copy of this resolution to Brother Joe Adams and send a copy to President Sam Moore and Publicist, Kathy Chambers.

HR 111 was adopted by voice vote.

HB 283, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of Committee Substitute to **HB 283**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 283**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 2 to Committee Substitute to **HB 283**.

Representative Rapier moved that **HB 283**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 23. (See February 26, 1988 roll call on **HB 283** - Appendix A.)

HB 283, by way of Committee Substitute as amended, was passed.

Representative Rapier moved the adoption of the Floor Title Amendment to **HB 283**. Agreed; and title was agreed to.

Representative Rapier moved that the vote by which **HB 283**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 414, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HB 414** be passed.

On the roll call the vote was: Yeas 76, Nays 13. (See February 26, 1988 roll call on **HB 414** - Appendix A.)

HB 414 was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 414** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 476, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Substitute to **HB 476**. Agreed.

Representative Cyrus moved that **HB 476**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 26, 1988 roll call on **HB 476** - Appendix A.)

HB 476, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 476**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 220 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 220** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 26, 1988 roll call on **HB 220** - Appendix A.)

HB 220 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 220** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 173, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 173** be passed.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 173**.

On the roll call the vote was yeas 44-Ackerson, Allen, Ballard, Bronger, Clarke, Cline, Crupper, Deskins, Farrow, Ford, Freibert, Geveden, Gregory, Guenthner, Hancock, Hatcher, Hoover, R. Jones, T. Jones, Keith, Lear, Lefevers, LeMaster, Little, Long, Lyne, Maggard, McElroy, Nett, Noe, Noland, Northup, Pritchett, B. Richardson, P. Richardson, Ridley, Robinson, Seum, Siler, B. Smith, Strong, Todd, Turner, Will. Nays 44-Adkins, Altman, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Curd, Cyrus, Donnermeyer, Gedling, Gray, Handy, K. Harper, Heleringer, Hourigan, Jackson, Johnson, A. Jones, Kerr, Layman, Lile, Lundergan, Mack, Mason, McBee, Meyer, Moberly, Morris, Napier, O'Brien, Overstreet, Preston, Priddy, Reinhardt, Riner, Stumbo, White, Yates.

Floor Amendment No. 1 to **HB 173** was rejected.

Representative Ackerson moved the adoption of Committee Amendment No. 1 to **HB 173**.

Representative Johnson moved that **HB 173** be laid on Clerk's Desk.

On the roll call the vote was yeas 57-Ackerson, Adams, Adkins, Ark, Ballard, Blevins, Bronger, Casebier, Castleman, Clarke, Curd, Deskins, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Guenthner, Hancock, Hatcher, Heleringer, Hoover, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Lear, Lefevers, LeMaster, Little, Long, Lundergan, Lyne, McBee, McElroy, Nett, Noland, Northup, Overstreet, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Robinson, Seum, Siler, Strong, Stumbo, Todd, Turner, White, Will. Nays 28-Altman, Arnold, M. Brown, Bruce, Burch, Callahan, L. Clark, P. Clark, Crupper, Donnermeyer, Gedling, Handy, J. Harper, K. Harper, Hourigan, Kerr, Mack, Maggard, Mason, Meyer, Moberly, Morris, Napier, Noe, Priddy, Riner, Worthington, Yates.

The motion that **HB 173** be laid on the Clerk's Desk was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 429**, **HB 430**, **HB 432** and **HB 449** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:40 p.m.)

Orders of the Day (continued)

SB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **SB 4** be passed.

On the roll call the vote was: Yeas 83, Nays 2. (See February 26, 1988 roll call on **SB 4** - Appendix A.)

SB 4 was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **SB 72** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See February 26, 1988 roll call on **SB 72** - Appendix A.)

SB 72 was passed and the title agreed to.

Representative Noe moved that the vote by which **SB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **SB 20** be passed.

On the roll call the vote was: Yeas 82, Nays 5. (See February 26, 1988 roll call on **SB 20** - Appendix A.)

SB 20 was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 20** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 833, by Representatives Worthington, Blandford, Stumbo, Rapier and Richards: AN ACT relating to elections.

HB 834, by Representative Farrow: AN ACT relating to the conduct of elections.

HB 835, by Representative Farrow: AN ACT relating to places of entertainment.

HB 836, by Representative Maggard: AN ACT relating to surface coal mining.

HB 837, by Representative LeMaster: AN ACT relating to releases and assignments to real property.

HB 838, by Representative Priddy: AN ACT relating to tourist and convention commission in county containing cities of the first class.

HB 839, by Representative T. Jones: AN ACT relating to marriage.

HB 840, by Representatives McBee and Donnermeyer: AN ACT relating to administration of oaths to city officials.

HB 841, by Representatives McBee, Crupper, Donnermeyer and K. Harper: AN ACT relating to substance abuse treatment.

HB 842, by Representative Johnson: AN ACT relating to liens upon real property.

HB 843, by Representative L. Clark: AN ACT relating to county police.

HB 844, by Representative Northup: AN ACT relating to education.

HB 845, by Representative L. Clark: AN ACT relating to health coverage for state employes.

HB 846, by Representative L. Clark: AN ACT relating to health coverage for state employes.

HB 847, by Representative Northup: AN ACT relating to the legislative budget and appropriations process.

HB 848, by Representatives Ford, Todd, Altman, J. Harper, Noland, Lefevers, White, Hoover, P. Clark, Napier, Robinson, Johnson, Allen, Siler, Keith, B. Smith and Turner: AN ACT relating to motor vehicles.

HB 849, by Representative Northup: AN ACT relating to investments by banks.

HB 850, by Representative Hatcher: AN ACT relating to civil rights and discrimination and matters relating thereto.

HB 851, by Representative Todd: AN ACT relating to chiropractors.

HB 852, by Representative Lear: AN ACT relating to urban county service districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 536, HB 660, HB 730, HB 807, HB 373, HJR 94.**

Judiciary-Civil: **HB 523, HB 754, HB 680, HB 697, HB 727, HB 710, HB 714.**

Natural Resources and Environment: **HB 217, HB 755.**

Judiciary-Criminal: **HB 776, HB 766.**

The Speaker announced the appointment on the following members to serve on a Conference Committee on **SB 8**: Representative Johnson, Chairman; Representatives Ackerson and Meyer.

Representative Hancock moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hancock moved the adoption of Legislative Citation No. 72. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates GREG AND BETH WILSON on the birth of your first child, Sarah Elizabeth. Born at 7:52 a.m. on Thursday, February 25, 1988 at King's Daughters Memorial Hospital, she weighed five pounds and eleven ounces. This very special little girl is named for her two great grandmothers and was born to her parents on their 10th Wedding Anniversary.

The House of Representatives joins Representative Hank Hancock in welcoming Sarah Beth to her new world and congratulates you, Greg and Beth, on this very happy occasion and wishes you many years of happiness and joy with your daughter. (Sponsored by Representative Hancock)

Representative Hatcher moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hatcher moved the adoption of the following **HR 113**:

HR 113, A RESOLUTION honoring the Reverend Louis Coleman and "The Run for Equality."

WHEREAS, Louis Coleman is pastor of the Shelby Congregational Methodist Church in Shelbyville, Kentucky; and

WHEREAS, his community and the Commonwealth of Kentucky have benefitted from his tireless efforts in the struggle for equality; and

WHEREAS, Louis Coleman has always believed that no person, whatever his religion, race or color should be treated in a discriminatory manner; and

WHEREAS, Louis Coleman has worked actively toward ameliorating the discriminatory practices toward minorities in the Commonwealth of Kentucky; and

WHEREAS, Louis Coleman played an integral part in "The Run for Equality" race, held on Tuesday, January 5, 1988, originating in Jefferson County and finishing in Franklin County; and

WHEREAS, "The Run for Equality" symbolizes the continued struggle against the tyranny of unlawful discriminatory practices toward minorities due to the lack of affirmative action concerning equal hiring practices, and to safeguard all minorities within the Commonwealth of Kentucky from discrimination in further executing the policies as set forth in the Federal Civil Rights Act of 1964; and

WHEREAS, the Governor's Code of Fair Practice has been adopted by every former Chief Executive of the Commonwealth of Kentucky since 1963; and

WHEREAS, the minority employment in 1986 was 93,000, but an additional 18,000 were unemployed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends the Reverend Louis Coleman for his dedication to justice and equality in the Commonwealth of Kentucky.

Section 2. That when the House of Representatives adjourns this day, Friday, February 26, 1988, it does so in honor of the Reverend Louis Coleman.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Reverend Louis Coleman, P. O. Box 75, Shelbyville, Kentucky, 40065.

HR 113 was adopted by voice vote.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **SB 139**, by Representative B. Jones:

Amend printed copy of **SB 139** on page 1, after line 10, by inserting the following:

"Section 2. KRS 41.370 is amended to read as follows:

(1) Any check issued by the state treasurer shall not be valid as an order for payment after one (1) year from its date of issue and this limitation shall appear on all checks issued. The state treasurer is authorized to clear his records of all such unpaid checks and credit the amounts to the fund against which it was originally drawn.

(2) When any properly indorsed check issued by the state treasurer is presented for payment more than one (1) year after its date of issue and within the period prescribed by KRS 413.120, the state treasurer shall, upon satisfactory proof of ownership, cancel such check and forward it to the secretary of the finance and administration cabinet with the date and number of the pay-in-voucher, which credited the amount of such check to a particular fund. The secretary of the finance and administration cabinet shall draw and warrant against the check. All indorsements on the surrendered check shall have the same effect as if the check were paid by the drawee. All checks paid in the manner herein set forth shall be charged against the fund against which they were originally drawn.

(3) There shall be a fee charged for each check presented for reissue. The fee shall be twenty-five dollars ($25) or ten percent (10%) of the face value of the check to be reissued, whichever is the larger. If the check to be reissued is less than twenty five dollars ($25) and replacement is required, a check payable to the Kentucky State Treasurer shall accompany the request for reissue. Reissued checks greater than twenty-five dollars ($25) shall have the fee deducted from the face value of the original check.

(4) Fees collected by the treasurer shall be deposited in the surplus account of the general fund.".

The Clerk announced the following meetings:

The Appropriations and Revenue Subcommittee on Human Resources, February 29, 1988, 1:00 p.m.

The Budget Review Subcommittee on Corrections, February 29, 1988, 10:00 a.m., Room 104.

The Committee on Rules, Speaker's Office, upon adjournment.

Representative Long moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Long moved that his vote be changed from "yea" to "nay" on **HB 283**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "yea" on **HB 414**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 476**. Agreed.

Representative Clarke moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Clarke moved that his vote be changed from "yea" to "nay" on **HB 283**. Agreed.

Representative A. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative A. Jones moved that he be recorded as voting "yea" on **SB 72**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 176, Representative Noe; **HB 204**, Representative Geveden; **HB 220**, Representative Altman; **HB 305**, Representative Lefevers; **HB 381**, Representative Hatcher; **HB 382**, Representative Hatcher; **HB 383**, Representative Hatcher; **HB 384**, Representative Hatcher; **HB 385**, Representative Hatcher; **HB 459**, Representative Hoover; **HB 466**, Representative Hoover; **HB 467**, Representative Hoover; **HB 495**, Representative Hoover; **HB 534**, Representative Hoover; **HB 566**, Representative Hoover; **HB 584**, Representative Freibert; **HB 588**, Representative Hoover; **HB 593**, Representative Lear; **HB 609**, Representative Donnermeyer; **HB 630**, Representative Hoover; **HB 636**, Representatives Hoover, Seum; **HB 703**, Representative Handy; **HB 706**, Representatives Crupper, Hancock, Hoover; **HB 712**, Representative Hoover; **HB 713**, Representative Hoover; **HB 763**, Representatives Hoover, White; **HB 772**, Representative Seum.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 29, 1988.

On the roll call the vote was yeas 81-Ackerson, Adams, Adkins, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Burch, Callahan, Casebier, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Riner, Robinson, Seum, Siler, B. Smith, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 4-Bronger, Lear, LeMaster, B. Richardson.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 29, 1988

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John P. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Layman and Hatcher

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 26, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 102**, **SB 201**, **SB 202**, **SB 264**, **SJR 44**, **HB 3** with Senate Amendment, **HB 386**, **HB 479** and **HJR 31**.

Report on Enrolled Bills

HB 429, **HB 430**, **HB 432** and **HB 449** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 853, by Representative B. Smith: AN ACT relating to agriculture.

HB 854, by Representatives Cline, Adkins, Stumbo, Cyrus, Jackson and McElroy: AN ACT relating to economic development in economically depressed counties.

HB 855, by Representative O'Brien: AN ACT relating to the Office of Investment and Debt Management.

HB 856, by Representatives Mack and Stumbo: AN ACT relating to revenue and taxation.

HB 857, by Representative Gregory: AN ACT relating to water districts.

HB 858, by Representative Seum: AN ACT relating to probation fees in counties containing a city of the first class.

HB 859, by Representatives Strong and Gedling: AN ACT relating to local health departments.

HB 860, by Representative Hancock: AN ACT relating to travel expenses of state officers and employes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 828**, **HB 847**.

Banking and Insurance: **HB 849**.

Business Organizations and Professions: **HB 841**.

Cities: **HB 838**, **HB 840**, **HB 852**.

Counties and Special Districts: **HB 835**, **HB 843**.

Education: **HB 844**.

Health and Welfare: **HB 829**, **HB 851**.

Judiciary-Civil: **HB 825**, **HB 837**, **HB 839**, **HB 842**, **HB 850**.

Judiciary-Criminal: **HB 831**.

Labor and Industry: **HB 830**.

Natural Resources and Environment: **SB 258**, **HB 836**.

State Government: **SB 222**, **SJR 42**, **HB 826**, **HB 827**, **HB 833**, **HB 834**, **HB 845**, **HB 846**.

Transportation: **HB 824**, **HB 832**, **HB 848**.

Report of Committees

The Committee on Rules reported **HB 345**, **HB 350**, **HB 353**, **HB 556**, **HB 626**, **HB 19**, **HB 487**, **HB 489**, **HB 491**, **HB 527**, **HB 612**, **HB 613**, **HB 633**, **HCR 92**, **SB 188**, **SB 214** and **SCR 45** have been posted for passage in Orders of the Day, March 1, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in Orders of the Day, March 1, 1988: **HB 670**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: **HB 568**.

Banking and Insurance: **HB 769**.

Education: **HB 472**, **HB 473**, **HB 678**, **HB 778**, **HB 779**, **HB 792**, **SB 44**, **SB 45**, **SB 46**, **SB 55**.

Orders of the Day

HB 442 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 442** be passed.

On the roll call the vote was: Yeas 86, Nays 4. (See February 29, 1988 roll call on **HB 442** - Appendix A.)

HB 442 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 442** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 596** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 29, 1988 roll call on **HB 596** - Appendix A.)

HB 596 was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 360**. Agreed.

Representative Farrow moved that **HB 360**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 4. (See February 29, 1988 roll call on **HB 360** - Appendix A.)

HB 360, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 360**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 53** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:16 p.m.)

Orders of the Day (continued)

HCR 30, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HCR 30**. Agreed.

Representative Scorsone moved that **HCR 30**, as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 16. (See February 29, 1988 roll call on **HCR 30** - Appendix A.)

HCR 30, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HCR 30**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 687, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 687**. Agreed.

Representative Cyrus moved that **HB 687**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 29, 1988 roll call on **HB 687** - Appendix A.)

HB 687, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 687**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 503, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Committee Amendment No. 1 to **HB 503**. Agreed.

Representative Priddy moved that **HB 503**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 29, 1988 roll call on **HB 503** - Appendix A.)

HB 503, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 503**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 600 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved that **HB 600** be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See February 29, 1988 roll call on **HB 600** - Appendix A.)

HB 600 was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 600** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 26, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of Committee Amendment No. 1 to **HB 26**. Agreed.

Representative R. Smith moved that **HB 26**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 8. (See February 29, 1988 roll call on **HB 26** - Appendix A.)

HB 26, as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 26**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 616 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 616** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 29, 1988 roll call on **HB 616** - Appendix A.)

HB 616 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 616** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 654, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved the adoption of Committee Amendment No. 1 to **HB 654**. Agreed.

Representative Handy moved that **HB 654**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 17. (See February 29, 1988 roll call on **HB 654** - Appendix A.)

HB 654, as amended, was passed and the title agreed to.

Representative Handy moved that the vote by which **HB 654**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 446, with Senate Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 446** is as follows:

HB 446, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor, including, but not limited to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses as follows:

(a) Covering motor vehicle insurance only;

(b) To persons representing common carriers, as provided in KRS 304.9-170;

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(d) Covering only credit life, *credit health, credit personal property and credit unemployment* [~~and credit health~~] insurance;

(e) Covering agents writing mortgage guaranty insurance only;

(f) Covering agents:

1. Writing industrial life insurance only; or

2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if such agent actually collects and services a debit for such insurer;

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;

(h) Covering agents writing crop-hail insurance only; and

(i) Covering agents writing mechanical breakdown insurance only.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 2. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this state, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless such previous license was revoked, suspended, or continuation thereof refused by the commissioner.

(2) In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in such other state as to applicant's license and good conduct in such state.

(3) Persons representing public carriers who, in the course of such representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property.

(4) Persons soliciting or negotiating credit life, *credit health and accident, credit personal property and credit unemployment insurance* [~~and credit health and accident insurance~~] contracts.

(5) An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same kind or kinds of insurance, or has been so licensed within twelve (12) months next preceding date of application for the license, unless such previous license was revoked or suspended or continuation thereof refused by the commissioner.

(6) Any applicant for license covering the same kind or kinds of insurance as to which that applicant shall have held a valid license issued pursuant to Subtitle 9 of this chapter or other applicable Kentucky law which was surrendered, pursuant to KRS 304.2-080 or other applicable law, in order to accept employment with the department of insurance, provided, however, that such applicant shall apply for re-licensing within one (1) year of the date of termination of his employment with the department of insurance.

(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.

Section 3. KRS 304.9-100 is amended to read as follows:

(1) The purpose of a license issued under this subtitle to an agent, or solicitor is to authorize and enable the licensee actively and in good faith to engage in the business of insurance with respect to the general public, and to facilitate the public supervision of such activities in the public interest; and not for the purpose of enabling the licensee to receive a rebate of premium in the form of "commission" or other compensation

upon his own interest or upon those of other persons with whom he is closely associated in capacities other than as an insurance agent, or solicitor.

(2) The commissioner shall not grant, renew, continue or permit to exist any license as agent, or solicitor as to any applicant therefor or licensee thereunder if he finds that the license has been or is being or will probably be used by the applicant or licensee principally for the purpose of writing "controlled business," that is:

(a) Insurance on his own interest or those of his family or of his employer; or

(b) Insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, employes or debtors of a partnership, association, or corporation of which he or a member of his family is an officer, director, stockholder, partner, associate, or employe.

(3) Such a license shall be deemed to have been, or intended to be, used principally for the purpose of writing controlled business if the commissioner finds that during any twelve (12) months' period the aggregate premiums accruing or to accrue from such controlled business have exceeded or probably will exceed the aggregate premiums accruing or to accrue on other business written or probably to be written by such applicant or licensee during the same period.

(4) This section shall not apply as to:

(a) Insurance of the interest of a motor vehicle sales or financing agent in a motor vehicle sold or financed by it.

(b) Insurance of the interest of real property mortgagee in the mortgaged property, except title insurance.

(c) Credit life, *credit health, credit personal property and credit unemployment* [~~insurance and credit health~~] insurance.

Representative B. Smith moved that the House concur in the Senate Committee Substitute to **HB 446**. Agreed.

Representative B. Smith moved that **HB 446**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 29, 1988 roll call on **HB 446** - Appendix A.)

HB 446, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 446**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 60, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HJR 60** is as follows:

Amend printed copy of **HJR 60** on page 1, by deleting the fifth Whereas clause in its entirety and by substituting therefor the following: "Whereas, the nature and characteristics of hazardous and solid waste require technical and complex regulation; and"

The Senate Floor Amendment No. 2 to **HJR 60** is as follows:

Amend printed copy of **HJR 60** on page 3, line 2, by inserting after the word "waste." the following: "The Legislative Research Commission shall appoint the chairperson for the task force."

Representative M. Brown moved that the House concur in the Senate Committee Amendment No. 1 to **HJR 60**. Agreed.

Representative M. Brown moved that the House concur in the Senate Floor Amendment No. 2 to **HJR 60**. Agreed.

Representative M. Brown moved that **HJR 60**, as amended by the Senate, be passed.

On the roll call the vote was; Yeas 95, Nays 1. (See February 29, 1988 roll call on **HJR 60** - Appendix A.)

HJR 60, as amended by the Senate, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HJR 60**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 752** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 861, by Representative Richards: AN ACT relating to revenue and taxation for the funding of school districts.

HB 862, by Representatives Yates, L. Clark, Guenthner, Priddy, Casebier, Ackerson, Gregory, Bronger, Ark, Seum and Gedling: AN ACT relating to charitable gaming.

HB 863, by Representatives Strong, Gedling and Noe: AN ACT relating to costs in civil actions.

HB 864, by Representative Hancock: AN ACT relating to voter assistance.

HB 865, by Representative Yates: AN ACT relating to collective bargaining.

HB 866, by Representative Blevins: AN ACT relating to the public service commission.

HB 867, by Representative Blevins: AN ACT relating to sales and use taxes.

HB 868, by Representative Blevins: AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

HB 869, by Representative Ackerson: AN ACT relating to entrepreneurship education.

HB 870, by Representative Lundergan: AN ACT relating to revenue and taxation.

HB 871, by Representative L. Clark: AN ACT providing for state licensing of electricians and electrical contractors.

HB 872, by Representative Donnermeyer: AN ACT relating to teachers.

HB 873, by Representative B. Richardson: AN ACT relating to utilities in cities.

HB 874, by Representative B. Richardson: AN ACT relating to the public service commission.

HB 875, by Representative Crupper: AN ACT relating to the environment.

HB 876, by Representative Johnson: AN ACT relating to public assistance.

HB 877, by Representative Blevins: AN ACT relating to plumbing.

HB 878, by Representative Blevins: AN ACT relating to fish and wildlife resources.

HB 879, by Representative Blevins: AN ACT relating to economic development on surface mines and making an appropriation therefor.

HB 880, by Representative Nett: AN ACT relating to fire protection services.

HB 881, by Representative Lear: AN ACT relating to campaign finance.

HB 882, by Representative Lear: AN ACT relating to the private operation of water and wastewater treatment plants.

HB 883, by Representative Lear: AN ACT relating to health facilities and services.

HB 884, by Representative L. Clark: AN ACT relating to contractors.

HB 885, by Representative Rapier: AN ACT relating to sales and use taxes.

HB 886, by Representative B. Smith and Richards: AN ACT relating to local option.

HB 887, by Representative Blevins: AN ACT relating to domestic violence and abuse.

HB 888, by Representative Blevins: AN ACT relating to domestic violence and abuse.

HB 889, by Representative Johnson: AN ACT relating to statutory liens.

HB 890, by Representatives Morris, Bruce, Gregory, M. Brown, J. Harper, Gedling and Strong: AN ACT relating to income taxes.

HB 891, by Representative Walker: AN ACT relating to health care facilities.

HB 892, by Representative T. Jones: AN ACT relating to hazardous waste management.

HB 893, by Representatives Gedling and Morris: AN ACT relating to income taxes.

HB 894, by Representatives LeMaster, Hancock, Long, Farrow and Pritchett: AN ACT relating to charitable contributions.

HB 895, by Representatives Adkins, Cline, Keith, Blevins and Cyrus: AN ACT relating to the development of facilities in state parks.

HB 896, by Representatives Gedling and Crupper: AN ACT relating to coyotes.

HB 897, by Representative Deskins: AN ACT relating to underground coal mining.

HB 898, by Representative Deskins: AN ACT relating to coal mining.

HB 899, by Representatives Noland and Lefevers: AN ACT relating to federal tax reform and revenue generated therefrom and declaring an emergency.

HJR 115, by Representative Lear: A JOINT RESOLUTION directing the Legislative Research Commission to appoint a task force to study the office of the Auditor of Public Accounts.

HCR 116, by Representative Johnson: A CONCURRENT RESOLUTION establishing a Family Law Task Force.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 436, HB 575, HB 772.**

Counties and Special Districts: **HB 695, HB 644, HB 290, HB 796, HB 724.**

Natural Resources and Environment: **HJR 70, HB 321.**

State Government: **HB 719, HB 7, HB 774, HB 747, HB 703, HB 742, HB 750, HB 785, HB 788.**

Appropriations and Revenue: **HB 87, HB 578, HB 711, HB 720, HB 765, HB 789, HB 790, HB 653.**

The Clerk announced the following Bills and Resolution have been withdrawn from Committee Consideration:

State Government: **HJR 56.**

Appropriations and Revenue: **HB 390, HB 483.**

Motions, Petitions and Communications (continued)

Representative Deskins moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 503, HB 687, HB 442, HCR 30** and **HB 360**. Agreed.

Representative Geveden moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 442** and **HB 596**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 204, Representatives McElroy, Hourigan; **HB 248**, Representative Altman; **HB 249**, Representative Altman; **HB 494**, Representative Casebier; **HB 582**, Representative Northup; **HB 752**, Representative Walker; **HJR 60**, Representative Ackerson.

The following member filed a request to have his name withdrawn as co-sponsor of Bill:

HB 552, Representative Castleman.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to Committee Substitute to **HB 345**, by Representative Johnson:

Amend printed copy of **HB 345** on page 1, line 19, after "*skills.*", insert:

"*All instruction on human sexuality, responsible sexual behavior and sexually transmitted diseases shall emphasize, but not be limited to, discussion of self esteem, self-discipline, respect for others, the emotional, educational, health and social advantages of premarital abstinence and the development of skills with which to practice premarital abstinence.*";

And on page 4, line 4, before the word "*Additional*" insert:

"*All in-service training shall emphasize the development in teachers of the skills and resources necessary to teach children the skills with which to practice premarital abstinence.*"

Floor Amendment No. 3 to Committee Substitute to **HB 345**, by Representative Heleringer:

Amend printed copy of HCS to **HB 345** on page 3, line 23, after (7) by adding "*(a)*"; and

On page 3, after line 26, by adding the following:

"*(b) No condoms or other contraceptive shall be distributed or sold in any school covered by this Act.*"

Floor Amendment No. 1 to **HB 582**, by Representative Ackerson:

Amend printed copy of **HB 582** on page 1, line 5, delete "*certified*" and insert in lieu thereof "*certificate*"; and

On page 1, line 15, delete "*19*" and insert in lieu thereof "*23*"; and

On page 3, line 14, before "*from*" insert "*upon the records of the secretary of state*"; and

On page 3, line 15, after "*state*" insert ","; and

On page 3, line 17, after "*state,*" insert "*any assumed name which is registered with the secretary of state*"; and

On page 3, line 25, delete the ":" and insert in lieu thereof ";"; and

On page 4, line 2, delete the ":" and insert in lieu thereof ";"; and

On page 10, line 1, delete "*an*" and insert in lieu thereof "*and*"; and

On page 10, line 7, delete the ","; and

On page 10, line 10, insert "," after "*and restated*"; and

On page 11, line 5, after "*filing of*" insert "*the*"; and

On page 13, line 7, after "*state*" insert "*together with a properly completed qualification form prescribed by the secretary of state*"; and

On page 13, line 12, delete "*11*" and insert in lieu thereof "*13*"; and

On page 13, line 22, delete "*11*" and insert in lieu thereof "*4*"; and

On page 14, delete line 7 in its entirety and insert in lieu thereof "*forty dollars ($40) for the filing of each certificate.*"; and

On page 14, delete lines 8 and 9 in their entirety; and

On page 15, line 8, delete "*and*"; and

On page 16, line 2, delete "*will*" and insert in lieu thereof "*shall*"; and

On pages 16 through 25, delete Sections 18 through 26 in their entirety and insert in lieu thereof the following:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Subject to Section 19 of this Act, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, with or without the concurrence of the general partners, on a per capita or any other basis on any matter and may make any appropriate provision for the exercise of such voting right.

SECTION 19. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (4) of this section, a limited partner shall not be liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the business. However, if the limited partner participates in the control of the business, he shall be liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner shall not participate in the control of the business within the meaning of subsection (1) solely by doing one (1) or more of the following things:

(a) Being a contractor for, or an agent or employe of, the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation;

(b) Consulting with or advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety, guarantor or endorser for the limited partnership, guaranteeing or assuming one (1) or more specific obligations of the limited partnership or providing collateral for the limited partnership;

(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting, attending or participating in a meeting of partners;

(f) Proposing, approving, or disapproving, by voting or otherwise, one (1) or more of the following matters:

1. The dissolution and winding up of the limited partnership;

2. The sale, exchange, lease, mortgage, assignment, pledge, or other transfer of, or granting of a security interest in, all, or substantially all, of the assets of the limited partnership;

3. The incurrence, renewal, refinancing, payment or other discharge of indebtedness by the limited partnership other than in the ordinary course of its business;

4. A change in the nature of the business;

5. The admission or removal of a general partner;

6. The admission or removal of a limited partner;

7. A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;

8. An amendment to the partnership agreement or certificate of limited partnership; and

9. A matter related to the business of the limited partnership not otherwise enumerated in this subsection which the partnership agreement states in writing is subject to the approval or disapproval of limited partners;

(h) Winding up the limited partnership pursuant to Section 44 of this Act; or

(i) Exercising any right or power permitted to limited partners under this Act and not specifically enumerated in this subsection.

(3) The enumeration in subsection (2) of this section shall not mean that the possession or exercise by a limited partner of any power other than a power enumerated in that subsection constitutes participation by him in the business of the limited partnership.

(4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under a circumstance permitted by subsection (2) of Section 2 of this Act, shall be liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

SECTION 20. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, a person who makes a contribution to a business enterprise and erroneously, but in good faith, believes that he has become a limited partner in the enterprise shall not be a general partner in the enterprise and shall not be bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake he:

(a) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise by executing and filing with the secretary of state a certificate declaring withdrawal under this section.

(2) A person who makes a contribution of the kind described in subsection (1) of this section shall be liable as a general partner to any third party who transacts business with the enterprise before the person withdraws and an appropriate certificate is filed to show withdrawal or before an appropriate certificate is filed to show that the person is not a general partner, but, in either case, only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

SECTION 21. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Each limited partner may:

(1) Inspect and copy any of the partnership records required to be maintained by Section 5 of this Act; and

(2) Obtain from the general partners from time to time, upon reasonable demand, and subject to such reasonable standards as may be set forth in the partnership agreement or otherwise established by the general partners and for any purpose reasonably related to the limited partner's interest as a limited partner:

(a) True and full information regarding the state of the business and financial condition of the limited partnership;

(b) Promptly after becoming available, copies of the limited partnership's federal, state, and local income tax returns for each year; and

(c) Such other information regarding the affairs of the limited partnership as is just and reasonable.

SECTION 22. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners.

SECTION 23. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

Except as approved by the specific written consent of all partners at the time, a person shall cease to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in Section 32 of this Act;

(2) The general partner ceases to be a member of the limited partnership as provided in Section 40 of this Act;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudged a bankrupt or insolvent or has entered against him an order for any relief in any bankruptcy or insolvency proceeding;

(d) Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties.

(5) Unless otherwise provided in writing in the partnership agreement, one hundred twenty (120) days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, if the proceeding has not been dismissed, or if within ninety (90) days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties, the appointment has not been vacated or stayed, or ninety (90) days after the expiration of any such stay, the appointment has not been vacated.

(6) In the case of a general partner who is a natural person, his death or the entry of an order by a court of competent jurisdiction adjudicating him incompetent to manage his person or his property.

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a

trust, upon the termination of the trust, but not merely the substitution of a new trustee.

(8) In the case of a general partner that is a separate partnership, upon the dissolution and commencement of winding up of the separate partnership.

(9) In the case of a general partner that is a corporation, upon the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its certificate of incorporation or its equivalent; or

(10) In the case of a general partner that is an estate, upon the distribution by the fiduciary of the entire interest of the estate in the partnership.

SECTION 24. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership shall have all of the rights and powers, and is subject to all of the restrictions, of a partner in a partnership without limited partners.

(2) Except as provided in this Act, a general partner of a limited partnership shall have all of the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership shall have all of the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

SECTION 25. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to the limited partnership, and share in the profits and losses of, and distributions from, the limited partnership, as a limited partner. A person who is both a general partner and a limited partner shall have all of the rights and powers, and shall be subject to all of the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also shall have all of the powers, and shall be subject to all of the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

SECTION 26. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

The partnership agreement may grant to all, or certain identified general partners or a specified class or group of the general partners, the right to vote on a per capita or any other basis, separately or with all or any class or group of the limited partners or the general partners, on any matter and may make appropriate provision for the exercise of such voting rights."; and

On page 27, line 2, delete "*on*" and insert in lieu thereof "*upon*"; and

On page 27, line 5, insert "," after "*compromise*"; and

On page 27, line 16, after "*Act,*" insert "*of*"; and

On page 30, line 5, delete "*extend*" and insert in lieu thereof "*extent*"; and

On page 31, line 12, after "*contribution*" insert ","; and

On page 32, line 12, delete "*interests*" and insert in lieu thereof "*interest*"; and

On page 33, line 13, delete "*27*" and insert in lieu thereof "*28*"; and

On page 33, line 21, delete "*27*" and insert in lieu thereof "*28*"; and

On page 36, line 19, insert "," after "*state*"; and

On page 38, line 19, delete "*to*"; and

On page 47, after line 4, insert "362.095 Foreign limited partnership - Requirements for doing business in state - Name."

Floor Amendment No. 3 to Committee Substitute to **HB 652**, by Representative Lundergan:

Amend printed copy of Committee Substitute to **HB 652** on page 30, after line 21 and before line 22 by adding

"*(9) For purposes of recordkeeping and examination, banks located in this state which are controlled by a bank holding company, may consolidate any administrative, management or operational activity directly relating to banking into one (1) designated affiliated bank located in this state, which bank shall be responsible for maintaining appropriate records necessary for examination of that activity by state or federal regulatory authorities. This subsection shall not affect the requirements of KRS 287.040 to 287.080 pertaining to chartering requirements, boards of directors and capital requirements and shall not be construed to affect the provisions of KRS 287.180.*"

Floor Amendment No. 4 to Committee Substitute to **HB 652**, by Representative Ark:

Amend printed copy of Committee Substitute to **HB 652** on page 27, line 15 by deleting "*twenty percent (20%)*" and inserting in lieu thereof "*seventeen and one-half percent (17 1/2%)*".

The Clerk announced the following meetings:

The Committee on Labor and Industry, March 1, 1988, 8:30 a.m., Room 104.

The Budget Review Subcommittee on Justice, March 1, 1988, 8:00 a.m., Room 105.

The Committee on Rules, State Reception Room, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 1, 1988.

On the roll call the vote was yeas 70-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blevins, J. Brown, M. Brown, Burch, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Hancock, Handy, J. Harper, K. Harper, Hourigan, Jackson, Johnson, R. Jones, Kerr, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Turner, Walker, Will, Worthington, Yates. Nays 6-Bronger, Casebier, Deskins, Heleringer, LeMaster, Overstreet.

The motion to adjourn was adopted.

TUESDAY, MARCH 1, 1988

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Long.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 29, 1988 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 900, by Representative Deskins: AN ACT relating to counties.

HB 901, by Representative O'Brien: AN ACT relating to administration regulations.

HB 902, by Representatives Siler and Ford: AN ACT relating to county government.

HB 903, by Representative Farrow: AN ACT relating to solid waste landfills.

HB 904, by Representatives Scorsone, Moberly, Will, Blevins, Richards, White, Casebier and Kerr: AN ACT relating to the Kentucky higher education assistance authority.

HB 905, by Representative A. Jones: AN ACT relating to the commission on fire protection personnel standards and education.

HB 906, by Representatives Arnold and Lyne: AN ACT relating to county government.

HJR 117, by Representative Farrow: A JOINT RESOLUTION relating to Kentucky's archaeological heritage and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 896, HB 853.**

Appropriations and Revenue: **HB 856, HB 860, HB 861, HB 867, HB 870, HB 885, HB 890, HB 893, HB 899, SB 102, SB 202.**

Business Organizations and Professions: **HB 862, HB 886, HB 894.**

Cities: **HB 880.**

Counties and Special Districts: **HB 857.**

Education: **HB 865, HB 869, HB 872.**

Energy: **HB 866, HB 874, SB 201, HB 873.**

Health and Welfare: **HB 868, HB 876, HB 883, HB 891.**

Judiciary-Civil: **HCR 116, HB 859, HB 863, HB 887, HB 888, HB 889.**

Judiciary-Criminal: **HB 858.**

Labor and Industry: **HB 871, HB 877, HB 884, HB 897, HB 898.**

Natural Resources and Environment: **HB 875, HB 878, HB 882, HB 892, HB 895, SJR 44, HB 879.**

State Government: **HJR 115, HB 854, HB 855, HB 864, HB 881, SB 264.**

Report of Committees

The Committee on Rules reported **HB 441, HB 677, HB 447, HB 495, HB 501, HB 515, HB 530, HB 592, HB 593, HB 651, HB 652, SB 139** and **SB 175** have been posted for passage in Orders of the Day, March 2, 1988.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 784.**

Cities: **HB 808, SB 217, SB 223, HB 646.**

Report of Committees

The Committee on Education reported **HB 318, HB 482** with Committee Substitute attached thereto, **HB 494** with Committee Amendments attached thereto, **HB 543** with Committee Amendments attached thereto, **HB 602, HJR 81,** and **SB 49** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 318, AN ACT relating to teachers' loans and scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the general assembly to establish a teacher scholarship program to attract and encourage the most academically talented students to become certified Kentucky teachers and render service in the public schools of the Commonwealth.

(2) The Kentucky higher education assistance authority is authorized, to the extent of appropriations and other funds available to it, including funds pursuant to subsection (8) of this section, to make teacher scholarships to persons enrolled or accepted for enrollment at colleges located in Kentucky, who declare an intention to enter the teaching profession in the public schools of the Commonwealth, and who are eligible under subsection (3) of this section. Each teacher scholarship shall be evidenced by a promissory note which requires repayment or cancellation pursuant to subsection (5) of this section.

(3) For purposes of this section, "eligible program of study" shall mean an undergraduate or graduate program of study, which is preparatory to teacher certification, or recertification in a critical shortage area, and which does not lead to a certificate, diploma, or degree in theology, divinity, or religious education. Kentucky residents who are enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for teacher scholarships pursuant to this section, provided

that such persons:

(a) Rank academically in the top twenty percent (20%) of their high school graduating class or on the general educational development test; or

(b) Have attained a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale for prior undergraduate studies; or

(c) Have certification to teach, have attained a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale during the prior undergraduate studies and at least the equivalent of 3.0 on a 4.0 scale on any prior graduate studies, and agree to pursue appropriate recertification and to render qualified teaching service, upon completion of the recertification program, in a critical shortage area. For purposes of this section, a critical shortage area shall mean a situation of understaffing of teachers in particular subject matters, grade levels or geographic location as determined by the authority following consultation with the superintendent of public instruction.

(4) Persons who are enrolled at a participating institution in an eligible program of study and who have previously received teacher scholarships, pursuant to KRS 156.613 or this section, or math-science incentive loans, pursuant to KRS 156.611, not in excess of the aggregate limit prescribed by subsection (5)(a) of this section are eligible to apply for additional teacher scholarships so long as they:

(a) Have maintained continuous full-time enrollment, which during summer sessions shall constitute full-time enrollment for applicants pursuant to subsection (3)(c) of this section, exclusive of periods of approved deferment; and

(b) Have made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution; and

(c) Have attained a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale during the prior undergraduate studies and at least the equivalent of 3.0 on a 4.0 scale on any prior graduate studies.

(5) (a) The Kentucky higher education assistance authority shall establish, by administrative regulation, the maximum annual amount of scholarship to be awarded under this section, provided that the aggregate amount of scholarships per individual shall not exceed twenty thousand dollars ($20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

(b) The Kentucky higher education assistance authority shall award teacher scholarships only to eligible persons who agree to render service as certified teachers in the public schools of the Commonwealth for a major portion of the school day in at least seventy (70) school days during each semester of such service for up to four (4) consecutive years, exclusive of periods of approved deferment.

(c) In the event that the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualifying teacher service in any semester, unless such failure is temporarily waived for cause by the Kentucky higher education assistance authority, then any remaining scholarship shall become a loan to be repaid by the recipient.

(d) Persons ceasing to be enrolled in an eligible program of study shall immediately become liable for payment to the authority for the sum of all teacher scholarships received and accrued interest thereon, unless a deferment has been granted for cause by the authority. Persons failing to meet teaching requirements of paragraph (b) of this subsection in any required semester shall immediately become liable to the authority for repayment of the sum of all outstanding teacher scholarships and accrued interest thereon, unless a deferment has been granted for cause by the authority. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.

(e) The promissory notes of persons who actually render qualifying teacher service in accordance with subsection (5)(b) of this section shall be cancelled by the authority at a rate determined by the authority.

(f) The authority shall establish, by regulation, the terms and conditions for awarding, cancelling and repayment of such teacher scholarships including, but not limited to, the selection criteria, amount of scholarship

payments, deferments, the rate of repayment, the interest rate thereon, and the rate of cancellation of promissory notes.

(5) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a teacher scholarship under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, such judgment shall bear interest at a rate of five percent (5%) greater than the rate actually charged on the promissory note.

(6) A repayment obligation imposed hereunder shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.

(7) Failure to meet repayment obligations shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(8) All monies repaid to the Kentucky higher education assistance authority shall be added to the appropriations made for purposes of this section, and such funds and unobligated appropriations shall not lapse.

(9) The authority shall execute appropriate contracts and promissory notes for administering this section. No teacher scholarship shall be awarded nor promissory note cancellation granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785.

(10) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships and who have not completed their eligible program of study. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky higher education assistance authority is authorized to participate in and administer, within Kentucky, the Paul Douglas teacher scholarship program funded by the federal government pursuant to 20 U.S.C. Section 111(b). The authority shall execute such contracts and agreements with the United States government, educational institutions, and students as may be necessary to qualify the authority to participate in said program. The authority shall promulgate administrative regulations to govern the administration of this program which shall not be more restrictive than the requirements imposed by federal law and regulations or inconsistent with this chapter.

Section 3. The following KRS sections are repealed:

156.611 Legislative intent — Student loans for mathematics and science.

156.613 Legislative intent — Student loans for teacher education.

HB 482, AN ACT relating to speech pathologists and audiologists and declaring an emergency thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 334A.040 is amended to read as follows:

(1) Nothing in this chapter, however, shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which he is licensed.

(2) Nothing in this chapter shall be construed to prevent qualified hearing aid dispensers from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.

(3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech-language

pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:

(a) Persons who [~~on August 1, 1986,~~] hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education [~~who have not obtained a master's degree in speech-language pathology or audiology or substantive equivalent~~] and who render speech-language pathology or audiology services exclusively in the public schools;

(b) Speech-language pathologists or audiologists employed by the federal government; providing such persons are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech-language pathology or audiology services as defined in subsections (4) and (6) of KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter; or

(c) Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.

(4) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, provided these activities and services constitute a part of the planned course of study and that such persons are designated by such title as "speech-language pathology intern," "speech-language pathology trainee," or other such title clearly indicating the training status appropriate to his level of training under the supervision of a licensed speech-language pathologist.

(5) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his planned course of study and that such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his level of training, under supervision of a licensed audiologist.

(6) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist from another state from offering his speech-language pathology or audiology services in this state provided such services are performed for no more than five days in any calendar year and provided that person meets the qualifications and requirements stated in the section on qualifications, except that such person need not apply for licensure under this chapter. However, a person from another state who is licensed or certified as a speech-language pathologist or audiologist by a similar board of another state, or territory of the United States, or of a foreign country or province whose standards are equivalent to or higher than, at the date of his certification or licensure, the requirements of this chapter and regulations duly adopted hereunder, or a person who meets the qualifications and requirements, and resides in a state or territory of the United States, or a foreign country or province which does not grant certification or license to speech-language pathologists, may also offer speech-language pathology services in this state for a total of not more than thirty (30) days in any calendar year without making application for licensure under this chapter.

(7) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist who has all the qualifications necessary for licensure under this chapter, who is not certified or licensed by another administrative agency, and who has made application for licensure under this chapter from rendering speech-language pathology or audiology services within this state while awaiting licensure.

Section 2. KRS 334A.060 is amended to read as follows:

(1) [~~The board may waive the examination and educational requirements for those applicants who, on August 1, 1986 are actively engaged in the practice of speech-language pathology or audiology, hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education, and have obtained a master's degree in the area of speech-language pathology or substantive equivalent, upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations.~~

~~(2) The board may waive the examination and educational requirements for those applicants who, after August 1, 1986, are actively engaged in the practice of speech-language pathology or audiology exclusively in the public schools, hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education, and have not obtained a master's degree in the area of speech-language pathology or audiology or substantive equivalent, upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations, provided such applicants obtain a bachelor's degree in speech-language pathology or audiology by August 1, 1987 and further provided such applicants obtain a master's degree in speech-language pathology or audiology or substantive equivalent on or before August 1, 1991.~~

~~(3)~~] The board may waive the examination and grant a license to applicants who present proof of current licensure in a state which has standards that are at least equivalent to those of this state.

(2)[~~(4)~~] The board may waive the examination and grant a license to those who hold the Certificate of Clinical Competence of the American Speech and Hearing Association in the area for which they are applying for licensure.

Section 3. Whereas, there is a critical shortage of speech audiologists and pathologists with master's degrees and it has become increasingly difficult for local districts to hire persons with such qualifications, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

The Committee Substitute to **HB 482** is as follows:

HB 482, AN ACT relating to speech pathologists and audiologists and declaring an emergency thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) A person who has a master's degree in the area of speech-language pathology or audiology or substantive equivalent course work as defined by the board's regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication, the experience being obtained with a training institution or in one of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience as deemed necessary by the board. This postgraduate professional experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology. A person with interim licensure shall make every effort to take and pass an examination approved by the board. Upon completion of postgraduate professional experience as deemed necessary by the board, the speech-language pathologist or audiologist shall make immediate application to the board for permanent licensure if all requirements have been completed satisfactorily or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(2) After August 1, 1986, any person who has a bachelor's degree in the area of speech-language pathology desiring to practice in the public schools shall apply to the board for a provisional license. This provisional license shall be valid for five (5) years or until August 1, 1994 whichever comes first provided the applicant is pursuing a program of study which will result in the applicant obtaining a master's degree in speech-language pathology or audiology or its substantive equivalent as defined by the board, and provided the applicant meets all other requirements for interim licensing. The provisional licensee may provide services only in the public schools in the Commonwealth. This provisional license shall be renewable annually for a maximum of five (5) years from the date the bachelor's degree was granted and may be extended by the board for a one (1) year period, only upon a showing of extraordinary circumstances.

(3) In order to best regulate the quality of professional service to children in the public schools of the Commonwealth, any speech language pathologist employed by the public schools shall apply for and maintain appropriate licensure until such time as the Kentucky council on teacher education and certification recommends and the state board of education adopts and maintains an administrative regulation requiring such speech language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b).

Section 2. KRS 334A.040 is amended to read as follows:

(1) Nothing in this chapter, however, shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which he is licensed.

(2) Nothing in this chapter shall be construed to prevent qualified hearing aid dispensers from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.

(3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech-language pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:

(a) [~~Persons who on August 1, 1986, hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education who have not obtained a master's degree in speech-language pathology or audiology or substantive equivalent and who render speech-language pathology or audiology services exclusively in the public schools;~~

~~(b)~~] Speech-language pathologists or audiologists employed by the federal government; providing such persons are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech-language pathology or audiology services as defined in subsections (4) and (6) of KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter; or

(b)[~~(c)~~] Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.

(4) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, provided these activities and services constitute a part of the planned course of study and that such persons are designated by such title as "speech-language pathology intern," "speech-language pathology trainee," or other such title clearly indicating the training status appropriate to his level of training under the supervision of a licensed speech-language pathologist.

(5) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his planned course of study and that such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his level of training, under supervision of a licensed audiologist.

(6) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist from another state from offering his speech-language pathology or audiology services in this state provided such services are performed for no more than five days in any calendar year and provided that person meets the qualifications and requirements stated in the section on qualifications, except that such person need not apply for licensure under this chapter. However, a person from another state who is licensed or certified as a speech-language pathologist or audiologist by a similar board of another state, or territory of the United States, or of a foreign country or province whose standards are equivalent to or higher than, at the date of his certification or licensure, the requirements of this chapter and regulations duly adopted hereunder, or a person who meets the qualifications and requirements, and resides in a state or territory of the United States, or a foreign country or province which does not grant certification or license to speech-language pathologists, may also offer speech-language pathology services in this state for a total of not more than thirty (30) days in any calendar year without making application for licensure under this chapter.

(7) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist who has all the qualifications necessary for licensure under this chapter, who is not certified or licensed by another administrative agency,and who has made application for licensure under this chapter from rendering speech-language pathology or audiology services within this state while awaiting licensure.

Section 3. KRS 334A.050 is amended to read as follows:

[~~(1)~~] To be eligible for licensure by the board as a speech-language pathologist or audiologist, the applicant must:

(1)[~~(a)~~] Be a citizen of the United States or have declared his intention to become a citizen. A statement by the applicant under oath that he is a citizen or that he intends to apply for citizenship when he becomes eligible to make application shall be sufficient proof of compliance with this subsection;

(2)[~~(b)~~] Show evidence of meeting the following professionally accepted academic and practicum standards:

(a)[~~1.~~] Master's degree in the area of speech-language pathology or audiology or substantive equivalent. The specific course work for this requirement is to be determined by the board and delineated in the regulations;

(b)[~~2.~~] Completion of supervised direct clinical practicum with individuals presenting a variety of disorders of communication, the experience being obtained with the training institution or in one (1) of its cooperating programs; and

(c)[~~3.~~] Completion of postgraduate professional experience as deemed necessary by the board; and

(3)[~~(c)~~] Pass the national examinations in speech-language pathology or audiology which are approved by the American Speech and Hearing Association and in effect at the time of application for licensure. Written examinations may be supplemented by such oral examinations as the board shall determine. An applicant who fails his examination may be reexamined at a subsequent examination upon payment of another licensing fee.

[~~(2) A person who has a master's degree in the area of speech-language pathology or audiology or substantive equivalent course work as defined by the board's regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication, the experience being obtained with a training institution or in one of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience as deemed necessary by the board. This postgraduate professional experience must be completed under the supervision of a speech-language pathologist who holds a Kentucky license if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology. A person with interim licensure shall make every effort to take and pass an examination approved by the board. Upon completion of postgraduate professional experience as deemed necessary by the board, the speech-language pathologist or audiologist shall make immediate application to the board for permanent licensure if all requirements have been completed satisfactorily or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.~~]

Section 4. KRS 334A.060 is amended to read as follows:

(1) *Upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations* the board may waive the examination and educational requirements for those applicants who, on August 1, 1986 [~~are actively engaged in the practice of speech-language pathology or audiology,~~] hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education[~~; and have obtained a master's degree in the area of speech-language pathology or substantive equivalent, upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations~~].

(2) [~~The board may waive the examination and educational requirements for those applicants who, after August 1, 1986, are actively engaged in the practice of speech-language pathology or audiology exclusively in the public schools, hold a valid and current credential as a speech and hearing specialist issued by the Kentucky state department of education, and have not obtained a master's degree in the area of speech-language pathology or audiology or substantive equivalent, upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations, provided such applicants obtain a bachelor's degree in speech-language pathology or audiology by August 1, 1987 and further provided such applicants obtain a master's degree in speech-language pathology or audiology or substantive equivalent on or before August 1, 1991.~~

~~(3)~~] The board may waive the examination and grant a license to applicants who present proof of current licensure in a state which has standards that are at least equivalent to those of this state.

(3)[~~(4)~~] The board may waive the examination and grant a license to those who hold the Certificate of Clinical Competence of the American Speech and Hearing Association in the area for which they are applying for licensure.

Section 5. KRS 334A.070 is amended to read as follows:

(1) There is hereby created a board of speech-language pathology and audiology which shall consist of eight (8) members to be appointed by the governor. Three (3) members shall be audiologists, three (3) members shall be speech-language pathologists, one (1) shall be an otolaryngologist and one (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The audiologists and speech-language pathologists members *shall* [~~must~~] hold a Kentucky license from the board of speech-language pathology and audiology and *shall* [~~must~~] practice in Kentucky. *One (1) of the speech-language pathologist members shall be employed in the public schools of the Commonwealth.* The members of the board shall serve until the expiration of the term for which they have been appointed or until their successors are qualified. All appointments made shall be for a term of three (3) years except for appointments to fill vacancies caused by a reason other than the expiration of a member's term which shall be filled for the remaining portion of the member's term. No person shall be appointed to serve more than two (2) consecutive terms.

(2) The board shall reorganize annually and select a chairman. Four (4) members of the board shall constitute a quorum to do business. The board shall hold at least one (1) regular meeting each year. Additional meetings may be held upon call of the chairman or at the written request of any two members of the board. All meetings of the board shall be open and public except that the board may hold executive sessions to prepare, approve, grade or administer examinations; or upon the request of an applicant who fails an examination, prepare a response indicating the cause of his failure.

Section 6. KRS 334A.160 is amended to read as follows:

The amount of fees prescribed in connection with a license as a speech-language pathologist or audiologist shall be as follows:

(1) The initial license fee shall not exceed one hundred dollars ($100);

(2) The delinquency fee shall not exceed twenty dollars ($20);

(3) The application fee shall not exceed fifty dollars ($50); [~~and~~]

(4) The inactive license fee shall not exceed ten dollars ($10);

(5) The provisional license fee shall not exceed seventy-five dollars ($75); and

(6) The interim license fee shall not exceed seventy-five dollars ($75).

Section 7. KRS 334A.170 is amended to read as follows:

(1) Each licensed speech-language pathologist or audiologist *or provisional licensee* shall annually on or before January 30, pay to the board a renewal fee not to exceed seventy-five dollars ($75) for a renewal of his license. A thirty (30) day grace period shall be allowed after January 30, during which time licenses may be renewed on payment of a renewal fee plus grace period fee which combined shall not exceed ninety dollars ($90). After expiration of the grace period, the board may renew each license upon payment of a renewal fee plus a delinquency fee which combined shall not exceed one hundred twenty-five dollars ($125). No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within five (5) years from the date of such expiration.

(2) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but such renewal does not entitle the licensee while the license remains suspended, and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order of judgment by which the license was suspended. A license revoked on disciplinary grounds is subject to expiration as

provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(3) A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such person may apply for and obtain a new license if he meets the requirements of this chapter.

(4) *Except for provisional licensees* a person applying for renewal of licensure shall show evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board.

Section 8. Whereas, there is a critical shortage of speech-language pathologists, and it has become increasingly difficult for local school districts to hire persons with such qualifications, and there is an urgent need to regulate this profession for the protection and welfare of the public, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

HB 494, AN ACT relating to educational standards and practices and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 1988, there shall be a commission on teaching standards and practices with the authority and responsibility to:

(a) Establish standards and requirements for entry, continuation and advancement in teaching;

(b) Establish standards for the approval of college and university teacher education programs;

(c) Issue, renew, suspend and revoke teaching certificates; and

(d) Regulate the Kentucky beginning teacher internship program pursuant to KRS 161.030.

(2) The commission created by this Act shall be the successor to the state board of education, the department of education, and the superintendent of public instruction for purposes of the duties and functions formerly performed by those agencies, departments or officers which are now, by authority of this Act, performed by the commission:

(a) Rules, regulations, procedures and practices in effect under former laws shall continue in effect until repealed or amended by the commission; and

(b) Personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, or other funds employed, held by, or available to any state agency, department or officer for carrying out the functions assigned to the commission as of the effective date of this Act shall be transferred to the commission.

Section 2. KRS 161.010 is amended to read as follows:

As used in *this Act unless the context requires otherwise* [~~KRS 161.020 to 161.120~~]:

(1) "Administrator" means a certified employe of a school district or vocational school who does not fall within the definition of "teacher" in subsection (9) of this section.

(2) "Approved teacher preparation program" means a preparatory program, offered by an institution of higher education, that meets the standards of the commission and that upon completion qualifies its graduates for certification under this Act.

(3) "Commission" means the commission on teaching standards and practices.

(4) "Schools" means an elementary or secondary school of the state supported in whole or in part by public taxation.

(5) "Standard college or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the *commission on teaching standards and practices* [~~Kentucky department of elementary and secondary education~~].

(6)[~~(2)~~] "Standard college or university work of graduate grade" means academic preparation that extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a standard college or university accredited for the graduate level.

(7)[~~(3)~~] "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(8)[~~(4)~~] *"Teacher's aide"*[~~"Para-professional"~~] means an adult school employe who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his training and competency, certain instructional and non-instructional functions in the school program as are illustrated by, but not limited to: clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, preparing and organizing instructional materials and equipment.

(9) "Teacher" means any person who has continuing responsibility for and is engaged in classroom instruction or the performance of other professional education functions that require regular direct contact with students in the schools, including, but not limited to media specialists, guidance counselors and librarians.

[~~(5) "Teacher aide" shall be defined synonymously with para-professional.~~]

(10)[~~(6)~~] "Non-instructional *teacher's* [~~teacher~~] aide" means an adult school employe who works under the direct supervision of teaching staff in performing certain non-instructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a non-instructional period. Non-instructional teacher aides employed on a full-time basis shall possess skills necessary to perform the duties outlined in *this* subsection [~~(6) of this section~~] as demonstrated by achieving a minimum score on a measurement instrument developed by the state board of education.

SECTION 3. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The general administration, management and responsibility for carrying out the provisions of this Act are vested in the commission on teaching standards and practices composed of fifteen (15) voting members appointed by the governor consisting of two (2) persons who represent colleges of education having approved teacher preparation programs, three (3) administrators, one (1) of which shall be a school principal, one (1) citizen who has had no professional education experience in the past five (5) years and nine (9) teachers. The superintendent of public instruction and the executive director of the council on higher education or their designee shall serve as ex officio non-voting members.

(2) The governor shall appoint commission members from lists of nominees submitted in the following manner:

(a) Three (3) nominees for each of the positions representing colleges of education with approved teacher preparation programs shall be submitted by the organization with the largest paid institutional membership in the state;

(b) Three (3) nominees for each of the three (3) administrator positions shall be submitted by the administrators' organization having the largest paid membership in the state;

(c) Three (3) nominees for the citizen state-at-large position shall be submitted by the parent-teacher

organization with the largest membership in the state; and

(d) Three (3) nominees for each of the teacher positions shall be submitted by the teacher's organization having the largest paid membership in the state.

For the initial appointments, the governor shall designate four (4) members to serve a term of four (4) years; four (4) members to serve a term of three (3) years; four (4) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year. Vacancies shall be filled in the same manner as the original appointments.

(3) Vacancies on the commission shall be filled within sixty (60) days after they occur.

(4) Any member of the commission who through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position. The position shall become vacant sixty (60) days following the member's change in circumstances. Any member may be removed from the commission for ineligibility, malfeasance in office, incapacity, or neglect of duty, but for no other reason. A member shall not be removed unless and until he has been provided due process of law under procedures established by regulations of the commission.

(5) (a) Members of the commission shall serve without compensation from the commission but shall be reimbursed for actual and necessary expenses;

(b) A member of the commission who is an employe of the state or any of its political subdivisions, including a school district, shall be permitted to attend commission meetings and perform other commission business without loss of income or other benefits;

(c) A state agency, or any political subdivision of the state, including a school district, required to employ a substitute for a member of the commission who is absent from his employment while performing commission business, shall be reimbursed by the commission for the actual amount of any costs so incurred.

(6) (a) The commission shall, at its first regular meeting, elect a chairperson and a vice-chairperson from among the membership. Thereafter, the chairperson and vice-chairperson shall be elected at the last regular meeting of each calendar year or as soon thereafter as practicable. No member may serve as chairperson or vice-chairperson for more than three (3) consecutive years. The chairperson and vice-chairperson may be removed from office at any time by a majority of the commission's members, in which event the vacancy shall be filled for the unexpired term in the same manner as the original selection;

(b) The chairperson shall be the presiding officer at meetings of the commission and shall be an ex officio member of all committees established within the commission. In the absence of the chairperson, or if he is unable to act, the vice-chairperson shall have the powers and perform the duties of the chairperson. The chairperson and vice-chairperson shall have such powers and duties as may be necessary for the performance of the functions of their offices as the commission shall determine; and

(c) If both the chairperson and vice-chairperson are absent from or unable to act at a meeting, the commission shall elect for that meeting a chairperson pro tempore.

(7) (a) The commission by a vote of two-thirds (2/3) of its members shall employ an executive director, who shall perform and discharge under the direction and control of the commission those duties and responsibilities vested in the commission and delegated to the executive director by the commission. The executive director may be dismissed by a majority vote of the members; and

(b) The executive director with the approval of the commission, may employ such additional professional and clerical personnel as may be necessary to carry out his duties and responsibilities. The commission shall be an equal opportunity employer.

(8) The commission shall hold regular meetings at least once each month, in no fewer than ten (10) months each year, and shall hold such other special meetings as may be necessary. The commission's headquarters shall be in Frankfort, Kentucky; meetings shall be held primarily in Frankfort, but may be held at any place in the state designated by the commission. The chairperson may call a special meeting of the commission at any time, and shall call a special meeting upon written request of seven (7) or more members of the commission. Members shall be mailed written notice of the time and place of all regular meetings at least fourteen (14) days

prior to each meeting; they shall be mailed written notice of the time, place and purpose of all special meetings at least seven (7) days prior to each meeting whenever practicable.

(9) The presence of a majority of the members of the commission shall constitute a quorum for transaction of business. All meetings of the commission shall be subject to the provisions of KRS 61.805 to 61.850. Minutes of each regular commission meeting shall be prepared and mailed to each member of the commission at least fourteen (14) days prior to the next regular meeting. An agenda shall be prepared for each meeting by or at the direction of the chairperson. Members shall be mailed the agenda for each regular meeting at least seven (7) days prior to each meeting; they shall be mailed the agenda for each special meeting at least three (3) days prior to each meeting whenever practicable. The commission shall have an official seal which shall be judicially noticed.

(10) Written and oral presentations may be made to the commission in accordance with administrative regulations promulgated by the commission.

(11) No member of the commission shall participate in any matter before the commission in which he has a pecuniary interest, personal bias, or other conflict of interest. The commission shall adopt administrative regulations defining what constitutes a conflict of interest.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall have the exclusive authority to issue certificates to teachers who teach in the public schools of the Commonwealth.

(2) The commission shall promulgate administrative regulations governing qualifications for certificates, types of certificates, equivalent qualifications for certification under laws of other states, expiration and renewal of certificates and the fixing of fees. A certificate which was issued pursuant to the laws of this state prior to the effective date of this Act shall remain in force as long as it continues to be valid under the laws and regulations pursuant to which it was issued. Any person who holds such a valid certificate shall, upon application to the commission and payment of the prescribed fee, be granted a certificate of the type most nearly equivalent to the type of certificate held at the time of application, notwithstanding any other provision of this Act.

(3) Any person whose application for the issuance of a certificate is denied shall be entitled to a hearing before the commission as a whole, in accordance with Section 7 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall have the exclusive authority to suspend for a specified period of time or revoke a certificate granted pursuant to this Act, or pursuant to state law prior to the effective date of this Act, on the following grounds:

(a) Conviction of a crime by a court of competent jurisdiction which renders the person unfit to perform the duties for which he has been certificated. The commission by regulation shall maintain a published list of such crimes;

(b) Failure to meet certification requirements;

(c) Fraud or misrepresentation in obtaining a certificate; or

(d) Failure to repay any loan awarded under KRS 156.611 and interest that becomes due.

(2) (a) A proceeding to suspend or revoke a certificate shall be initiated by the filing of a complaint with the commission by any interested party. The commission by regulation shall prescribe standards for determining who is an "interested party". The complaint shall be in a form prescribed by the commission, shall specify the nature and character of the charges, and shall be verified under oath by the complaining party or a duly authorized agent of the complaining party. The commission, and its individual members, may not file a complaint or initiate a suspension or revocation proceeding by their own motion, except that in the performance of commission business, the commission, or any of its individual members, uncovers evidence that would appear to require suspensions or revocation of a certificate, the commission may transmit such evidence to the general counsel

of the commission, who shall treat such evidence as a complaint and, to the extent applicable, proceed in accordance with the provisions of this subsection;

(b) The general counsel shall notify the affected person in writing that a complaint has been filed against him, the nature of the complaint, of his right to a hearing, and of the date for the hearing;

(c) Notwithstanding any other provision of this Act, if the commission determines that the immediate suspension or revocation of a certificate may be necessary to protect the health, safety or welfare of pupils or other persons, the commission may modify the procedure set forth in this subsection and schedule an expedited hearing, in accordance with subsection (3) of this section; and

(d) If a hearing is not scheduled to take place within one hundred twenty (120) days from the time the affected person is first notified of the allegations, the commission shall order the investigation discontinued and the complaint dismissed.

(3) Except as otherwise provided in subsection (2) of this section, no certificate shall be suspended or revoked until the affected person has an opportunity for a hearing before the commission. The hearing shall be held in accordance with the procedures set forth in Section 7 of this Act. The hearing shall be closed, unless the affected person requests it be open. If the hearing is open, the commission, in its discretion, may close any portion of the hearing for good cause. If the hearing is closed, only commission members and staff, the affected person and his representatives, and any material witness shall be permitted to attend. The burden of proof shall be on the general counsel to establish that grounds for suspension or revocation exist.

(4) Within thirty (30) days after the conclusion of the hearing, the commission shall render its decision based on the evidence presented at the hearing. If the decision of the commission is that the charges are not proven, the commission shall dismiss the complaint. If the decision of the commission is that the charges have been proven, the commission may take any of the following disciplinary actions against the affected person:

(a) Place on probation for a period to be determined by the commission;

(b) Suspend the certificate for a period to be determined by the commission; or

(c) Revoke the certificate.

No disciplinary action may be taken except by a vote of two-thirds (2/3) of the full membership of the commission.

(5) Any person whose certificate has been suspended or revoked may apply to the commission for a lifting of the suspension or a reinstatement of the certificate. The commission may order such a lifting or reinstatement based upon standards prescribed by the commission in administrative regulations.

(6) Any person whose certificate has been suspended or revoked, or whose application for a lifting of a suspension or a reinstatement of a certificate has been denied, shall be entitled to appeal in the manner provided in Section 8 of this Act. In a proceeding to suspend or revoke a certificate, an appeal filed under this section shall operate as a stay of the suspension or revocation until the determination of the appeal, except where the commission's decision to suspend or revoke is accompanied by a finding that immediate suspension or revocation is necessary to protect the health, safety or welfare of students or other persons in the schools of this state.

(7) The commission is authorized to prescribe by administrative regulation further requirements not inconsistent with this Act respecting the investigation, prosecution and disposition of complaints brought pursuant to this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall adopt by administrative regulation the standards governing the approval and withdrawal of approval of teacher preparation programs.

(2) Whenever the commission denies approval to or withdraws approval from a teacher preparation program, the institution of higher education offering the program shall be entitled to appeal such denial or withdrawal in the manner prescribed in Section 8 of this Act. Approval may not be denied to or withdrawn from a teacher

preparation program except by a majority vote of the full membership of the commission.

(3) The commission may enter into agreements with accrediting agencies of other states for reciprocal approval of teacher preparation programs in accordance with administrative regulations adopted by the commission.

(4) Any approval of a teacher preparation program which was granted pursuant to the laws of this state prior to the effective date of this Act shall remain in force until the time for renewing approval under this Act.

(5) Applications for certification from persons who were enrolled and participating in a teacher preparation program when that program lost its approval, or who entered an unapproved teacher preparation program that subsequently received its approval while they were still enrolled and participating, shall be dealt with individually by the commission in accordance with administrative regulations adopted by the commission.

SECTION 7. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall conduct its proceedings in accordance with the provisions of this Act. Any person is entitled to be heard by the commission in person, in writing, or through his designated representative, in accordance with procedures adopted pursuant to Section 3 of this Act. The commission shall enter as a matter of record the minutes of each meeting, every vote taken by the commission, and every official act of the commission.

(2) In all proceedings pending before it, the commission is authorized to issue subpoenas to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidentiary material. Subpoenas shall be issued upon the application of any party to a proceeding, or of the executive director or general counsel acting in a non-party capacity, based upon a showing of general relevance and reasonable scope. A subpoena may be served upon any person named herein, anywhere within the state, by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of a circuit court of this state. Witnesses summoned before the commission by subpoena shall be paid for mileage, per diem, and other costs as the commission directs. If any person to whom the commission has issued a subpoena fails to comply with the terms of said subpoena, the commission is authorized to apply to a circuit court for an order requiring that person to comply therewith. Failure to obey such order of the court may be punished by the court in the same manner as prescribed for non-compliance with a court order.

(3) In all proceedings pending before the commission in which expert testimony on professional education functions or teacher preparation programs is necessary, the commission is authorized to hear evidence from impartial expert witnesses appointed by the commission. The commission shall establish by regulation procedures governing its selection of expert witnesses.

(4) The commission is authorized to adopt administrative regulations as may be necessary to the exercise of its functions under this Act. The regulations shall be adopted by the commission pursuant to the requirements of KRS Chapter 13A.

(5) The commission is authorized to hold hearings as may be necessary to exercise its functions under this Act. Any hearing held pursuant to this Act shall be held upon appropriate and timely notice to all parties. The hearing may be before the commission as a whole, or before three (3) or more members thereof, as designated by the commission. A member, or hearing officer appointed by the commission, shall preside at the hearing. All parties to the hearing shall have the right to be present at the hearing, to be represented by counsel or other representative, and to present relative evidence and argument. All witnesses shall be sworn upon oath administered by the presiding official. The commission may employ a court reporter to record the proceedings at the hearing; any party may obtain a transcript thereof at his own expense. The commission shall promulgate administrative regulations governing the conduct of hearings, which regulations shall be consistent with this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Any person adversely affected by a final action of the commission is entitled to judicial review of the final action. Final actions of the commission include but are not limited to:

(a) The promulgation of a regulation after public notice and an opportunity to be heard;

(b) The denial of an application for certification;

(c) The suspension or revocation of a certificate; and

(d) The denial or withdrawal of approval for a teacher preparation program.

A preliminary, procedural, or intermediate commission action is subject to judicial review upon the review of the final commission action; except that a preliminary, procedural, or intermediate commission action is subject to immediate judicial review if review of the final commission action would not provide an adequate remedy. A person aggrieved by an allegedly unlawful or unreasonable failure to act by the commission shall be entitled to judicial review to compel commission action.

(2) A proceeding for judicial review shall be instituted by filing a petition in the Franklin circuit court within thirty (30) days after the person aggrieved knew or reasonably should have known of the action or failure to act by the commission. Copies of the petition for review shall be served upon the commission and all parties of record to the proceeding on which the final action or failure to act is based.

(3) On such conditions as may be required and to the extent necessary to prevent irreparable injury, a reviewing court may postpone the effective date of any commission action pending conclusion of the review proceedings.

(4) Review shall be conducted by the court without a jury and shall be confined to the record. To the extent necessary for its decision and when presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of a commission action. The court may remand a matter to the commission for further proceedings or affirm or modify an action of the commission without a remand. The court shall compel commission action when the commission has unlawfully or unreasonably failed to act. The court shall hold unlawful and set aside commission action, findings and conclusions found to be:

(a) In violation of constitutional or statutory right, power, privilege, immunity or limitation;

(b) Without observance of procedure required by this Act, the commission's regulations or other law;

(c) Unsupported by substantial evidence upon the record as a whole; or

(d) Arbitrary, capricious, or an abuse of discretion.

In making the foregoing determinations, the court shall review the whole record of those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

SECTION 9. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

The commission shall submit to the governor and the general assembly an annual report of its activities. The report shall include specific findings and conclusions with regard to certification and teacher preparation program approval, an official audit of all commission expenditures, and such additional information as may be requested. The commission shall publish, from time to time, other reports as it deems appropriate. The commission shall develop and make recommendations to the general assembly regarding matters covered by this Act. The commission shall appoint such committees as it deems appropriate to assist it in an advisory capacity.

SECTION 10. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in this Act, the commission may delegate to one (1) or more of its members, staff, or other agents the authority to perform any of the functions to be performed by the commission itself under this Act, and performance by the delegate shall for purposes of this Act be deemed an action of the commission.

Section 11. KRS 161.025 is amended to read as follows:

(1) There shall be a Kentucky council on *school administrators* [~~teacher~~] education and certification whose

members shall be appointed by the superintendent of public instruction as follows:

(a) The dean or department head for education from each of the state universities [~~and state senior colleges~~];

(b) Three (3) academic deans from the private senior colleges and universities selected so that representation shall be rotated among the private institutions;

(c) Fourteen (14) members, selected from nominees submitted by those professional organizations designated by the superintendent of public instruction as being most representative of the professional members to be appointed, to be nominated and selected in a manner to provide geographic representation, to include:

1. Two (2) members, who at the time of appointment shall hold the positions of local school superintendent,

2. Three (3) members, who at the time of appointment shall hold administrative or supporting personnel positions in which the major duties are other than classroom teaching,

3. Nine (9) members, who at the time of appointment shall hold positions as classroom teachers;

(d) One (1) member to be selected from a list of nominees submitted by the governing body of the Kentucky school boards association;

(e) One (1) member to be selected from a list of nominees submitted by the governing body of the Kentucky branch national congress of parents and teachers;

(f) Two (2) members selected at large;

(g) One (1) member from the department of education representing *school administrators* [~~teacher~~] education and certification, who shall serve as executive secretary;

(h) One (1) member from the *office of vocational* [~~department for occupational~~] education *in the department of education;*

(i) Two (2) members, who at the time of appointment, shall hold positions in *vocational* [~~occupational~~] education.

(2) Each individual appointment shall be for a period of four (4) years [~~except that one-half (1/2) of the initial appointments shall be for two (2) year terms~~]. Members may serve successive terms if [~~renominated and~~] re-appointed in the manner prescribed for membership. Vacancies shall be filled as they occur in a manner consistent with the provisions for initial appointments.

(3) At the first meeting held on or after July 1 of each year a chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings and shall prepare the approved recommendations for transmission to the superintendent of public instruction, the state board of education, and other appropriate agencies. Regular meetings shall be held at least biannually on call by the chairman.

(4) The Kentucky council on *school administrators* [~~teacher~~] education and certification shall develop and recommend policies and standards relating to *administrative* [~~teacher~~] preparation and certification including[~~:~~] the requirements for the preparation and certification of *administrative* [~~teachers and other professional~~] school personnel; the standards and procedures for the approval of college and university programs for the preparation of *school administrators* [~~teachers and other professional school personnel~~].

(5) To carry on the functions relating to its duties and responsibilities the Kentucky council on *school administrators* [~~teacher~~] education and certification is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences and publish information.

Section 12. KRS 161.027 is amended to read as follows:

(1) [~~Effective July 1, 1986,~~] The state board of education, pursuant to KRS 161.025[~~(4)~~], shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The state board of education and the council on higher education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) [~~Effective July 1, 1986,~~] The state board of education shall develop or select appropriate tests for applicants seeking certification as principals, including:

(a) A generic test to assure an acceptable level of communication skills, general knowledge and professional education concepts related to but not limited to instructional leadership, management and supervisory skills; and

(b) A specialized examination on the current instructional and administrative practices in Kentucky public education.

(4) The state board of education shall establish the minimum score for successful completion of examinations and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the tests. The state board of education shall provide for confidentiality of examination scores.

(5) [~~Effective January 1, 1988,~~] The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. Upon successful completion of the approved preparation program and the examinations, the superintendent of public instruction shall issue to the applicant a statement of eligibility for internship valid for four (4) years. If the applicant does not participate in an internship program within the four (4) year period, the applicant must reestablish eligibility by repeating and passing the examinations in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(6) [~~By July 1, 1986,~~] The council on *school administrators* [~~teacher~~] education and certification shall develop and recommend to the superintendent of public instruction and the state board of education an internship program which shall provide for the supervision, assistance and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed within a ten (10) year period prior to making application at least two (2) years of successful experience as a principal in a school situation. [~~Effective September 1, 1986~~] The state board of education, by regulation, shall establish the internship program.

(7) Effective July 1, 1988, all applicants for principal certification, after successfully completing the examinations, shall successfully complete the internship program described in subsection (6) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to regulations developed by the state board of education, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(8) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the state board of education.

Section 13. KRS 161.030 is amended to read as follows:

(1) The certification of *school administrators* [~~all teachers and other school personnel~~] is vested in the state board of education. When so certified, *school administrators* [~~teachers and other school personnel~~] shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education.

(2) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of *administrative* [~~teachers and other~~] school personnel, the curricula prescribed by the Kentucky council on *administrators* [~~teacher~~] education and certification and approved by the state board of education for the certificates.

(3) Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the *commission on teaching standards and practices* [~~state board of education~~] and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. In the event the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the *commission* [~~state board of education~~]. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The *commission* [~~department of education~~] shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers, and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employe or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by *commission* [~~state board of education~~] regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. In the event that more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations the *commission* [~~superintendent of public instruction~~] may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. In the event the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. The resource teacher shall be appointed by the *commission* [~~department of education~~] from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the *commission* [~~department of education~~] for work done outside normal working hours. Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:

(1) Teachers in the same school;

(2) Teachers in the same district; and

(3) Teachers in an adjacent school district.

The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his [~~or her~~] immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the *commission* [~~superintendent of public instruction~~] shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the *commission* [~~state board of education~~].

(9) In the event an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the *commission* [~~regulations of the state board of education~~]. The applicant shall remain eligible for the one (1) year certificate as provided in subsection (3) and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10) The *commission* [~~state board of education~~] shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the *commission* [~~state board of education~~] for the issuance of certificates and when the institution has met the terms and conditions *of the commission* [~~provided in KRS 161.010 to 161.120~~]. Any student who has completed any of these curricula as approved by the *commission* [~~state board of education~~], and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 14. KRS 161.042 is amended to read as follows:

(1) The *commission on teaching standards and practices* [~~state board of education~~] shall provide through regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the *commission* [~~state board of education~~], local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned.

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Section 15. KRS 161.046 is amended to read as follows:

(1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a subject area where there is a critical teacher shortage on a statewide or local district basis and who has met the requirements for certification as an adjunct instructor established by the *commission on teaching standards and practices* [~~state board of education~~].

(2) *The commission* [~~By September 1, 1984 the state board of education~~] shall establish regulations governing the qualifications and utilization of adjunct instructors. These regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate and shall establish and require competency tests if deemed necessary.

(3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

(4) Local school boards may contract with such certificated adjunct instructors for part-time services on an hourly, daily or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position for which a qualified teacher with a regular certificate is available at the time of the signing of the contract. An orientation program shall be developed and implemented for adjunct instructors by the local school board.

Section 16. KRS 161.115 is amended to read as follows:

The holder of any type of Kentucky teacher certification issued by the *commission on teaching standards and practices* [~~state board of education~~] may voluntarily, at the holder's option, have any certificate, certificate endorsement or subject specialization deleted from the official certification record upon application, subject to the following provisions:

(1) The application shall be submitted to the *commission* [~~state board of education~~] on a form furnished by the *commission* [~~board~~]. The form shall include the information required by this section and the applicant shall verify the information by affidavit. The application must be submitted between September 1 and December 1 and shall become effective on the following July 1. If the requirements of this section are satisfied, the *commission* [~~state board of education~~] shall notify the applicant and the applicant's employing school or school district on or before February 1 following submission of the application, that the decertification has been approved.

(2) No portion of the certification shall be deleted for any subject or assignment in which the teacher has had experience during the three (3) year period preceding the request in an amount equivalent to one (1) year of full-time employment (140 days) during which at least one (1) period per day was in the subject or assignment corresponding to the portion of the certification requested for deletion.

(3) If the certification for classroom teaching at the secondary level is to be retained, at least one (1) teaching major or one (1) area of concentration must be retained.

(4) A certificate which is a prerequisite or a concurrent requirement to the issuance of another certificate or certificate endorsement held by the applicant must be retained.

(5) Applications for restoration of areas of certification deleted under this section shall be submitted to the *commission* [~~state board of education~~] showing restored competency and proficiency by completion of twelve (12) semester hours of credit pertinent to the deleted areas as prescribed by an institution approved for teacher education. A transcript or other appropriate verification of completion of the twelve (12) semester hours of credit from the institution approved for teacher education shall be accepted as evidence showing restoration of competency and proficiency in the areas of certification.

Section 17. KRS 161.100 is amended to read as follows:

When a district board of education satisfies the *commission on teaching standards and practices* [~~state board of education~~] that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the *commission* [~~state board for elementary and secondary education~~] may[~~, on approval of the superintendent of public instruction,~~] issue emergency certificates to persons who meet the qualifications determined by the *commission* [~~state board for elementary and secondary education~~] for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The *commission* [~~state board for elementary and secondary education~~] may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded *by the commission* [~~in the state department of education under the direction of the superintendent of public instruction,~~] in accordance with rules and regulations approved by the *commission* [~~state board for elementary and secondary education~~].

Section 18. KRS 156.090 is amended to read as follows:

The *commission on teaching standards and practices and the* state board of education[~~, upon the recommendation of the superintendent of public instruction,~~] shall publish bulletins containing information on the kinds and grades of certificates issued, the rules and regulations governing the issuance of each kind and grade of certificate, schools offering teacher-training courses, the renewal of certificates, the transfer of certificates to and from other states, the acceptance of credentials from institutions of other states, and such other information relating to the training and certification of *professional educators* [~~teachers~~] as *they deem* [~~it deems~~] advisable.

Section 19. KRS 158.750 is amended to read as follows:

(1) [~~By January 1, 1987,~~] The state board of education shall assure that each pupil in the public schools of the Commonwealth is taught and is mastering the essential skills necessary to function in each basic skills area defined by KRS 158.650 to 158.730. The state board of education shall:

(a) [~~By July 15, 1984,~~] Determine the essential skills necessary for pupils to successfully complete each grade level. The essential skills shall be established for each of the basic skills areas established by KRS 158.650 to 158.730 for kindergarten and grades one (1) through twelve (12), though such essential skills established for kindergarten shall not be required for all the basic skills areas. Parents, teachers, administrators and representatives of groups interested in education shall be consulted in determining the essential skills. At least every four (4) years, the essential skills shall be reviewed and revised if necessary;

(b) Prior to the 1984-85 school year, disseminate the essential skills to local school districts and require the essential skills be taught to each pupil, at each grade level, in each public school;

(c) [~~By April 1, 1985,~~] Develop and disseminate tests to determine mastery of essential skills for mathematics and reading for each grade level to local school districts for administration prior to the end of the 1984-85 school year. Tests to determine mastery of essential skills for all basic skills areas set forth in KRS 158.650 to 158.730 shall be developed for each grade level and disseminated to all local school districts for administration prior to the end of the 1985-86 school year and after the one hundred and sixtieth (160th) day and before the one hundred and seventieth (170th) day of instruction in all school years thereafter through the 1987-88 school year. Following the complete testing and reporting cycle for 1987-88, requirements for administration, scoring and reporting of this test shall no longer be authorized without approval of the general assembly; and

(d) Score or cause to be scored all tests specified in paragraph (c) of this subsection, compile and analyze results, and assist local school districts interpreting tests results and in developing programs to improve academic performance. Students shall be classified as masters, partial masters and nonmasters of the essential skills.

(2) The superintendent shall report to the 1988 general assembly on the feasibility and advisability of administering the essential skills test at the beginning of the school year.

(3) Pupils identified as exceptional children pursuant to KRS 157.200 may be exempt from the requirements of this section if such exemption is in compliance with state board of education regulations and is recommended by the admissions and release committee. Exemptions shall be included in the pupil's individual educational plan.

(4) (a) Based on the results of the essential skills test, the department of education shall determine the number and type of units needed for each district to provide a remedial instruction program for the pupils who fail to meet mastery and notify the districts of their tentative allotment based on pupil need. In the event a greater number of units are needed than are appropriated in the biennial budget, the department of education shall adjust the allotment to districts in a manner which is proportionate to the need as indicated by the essential skills test results;

(b) Supplemental classroom units, to include only a salary allotment and current operating expense allotment, as defined in KRS 157.360, shall be allotted to local school districts to provide a remedial instruction program for each thirteen (13) pupils who at the end of their kindergarten, first, or second grade years are nonmasters of the essential skills as determined by state board of education regulations; and

(c) A salary allotment for a teacher aide as defined in KRS 161.010*(8)*[~~(5)~~], shall be allotted for each twenty (20) pupils who at the end of their kindergarten, first, or second grade years are partial masters of the essential skills as determined by state board of education regulations. The supplemental classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

Section 20. KRS 156.611 is amended to read as follows:

(1) The teaching fields of mathematics and science, staffed with teachers having a major or area of concentration in mathematics, biology, chemistry, earth science, physics, mathematics-physical sciences, natural sciences, or geology, are fields in which there exist critical shortages of teachers in grades seven (7) through twelve (12). It is hereby declared to be the intention of the general assembly to attract and retain qualified teachers to those fields by awarding incentive scholarships to persons declaring an intention to serve in such teaching fields and who actually render service to the Commonwealth in such fields while possessing a regular teaching certificate with an appropriate major or area of concentration.

(2) To the extent of appropriations available, persons enrolled at institutions of higher education approved by the state board of education to offer teacher education programs, who have been admitted to a teacher education program leading to a major or area of concentration as set forth in subsection (1) of this section, shall be eligible for student loans to be applied to the costs of their college education. Persons already certified, but who do not possess an appropriate major or area of concentration as set forth in subsection (1) of this section shall also qualify for such loans to obtain appropriate summer school credits at approved institutions.

(3) A student initially receiving a loan during his sophomore year shall be eligible for a maximum of three (3) annual loans. A junior establishing initial eligibility shall be eligible for a maximum of two (2) loans, and a senior shall be eligible for one (1) loan. Certified teachers attending summer school shall be eligible for loans for a maximum of three (3) summer school sessions.

(4) The maximum annual loan shall be set by the Kentucky higher education assistance authority at an amount not to exceed the average cost of room, board, tuition, and fees at the state-supported colleges and universities, except that a summer school loan shall equal one-third (1/3) of such amount for each summer school session attended.

(5) The loans of persons who actually render service as certified teachers in the Commonwealth for a major portion of the school day in the critical shortage fields recognized in subsection (1) of this section, for at least seventy (70) school days during each of six (6) school semesters immediately after obtaining an appropriate major or area of concentration, shall be converted to interest free scholarships. Conversion shall be based on two (2) semesters of service for each year a loan was received. One (1) semester of service is required for each loan for summer school attendance.

(6) Persons failing to complete an appropriate program of studies shall immediately become liable to the authority for the sum of all outstanding loans, except in the case of a deferral of debt for cause by the authority, after which period of deferral studies will be resumed. Persons failing to meet teaching requirements in any required semester shall immediately become liable to the authority for one-half (1/2) the amount of the corresponding loan received, except in the case of persons receiving loans for summer school attendance, who shall become liable for the amount of the loan applicable to a single summer school session, and except in the case of a deferral of debt for cause by the authority, after which period of deferral teaching duties required hereunder will be resumed. Persons liable for repayment of loans shall also be liable for interest for the entire period of the loan at a rate to be determined at the time the loan is granted.

(7) Any statutes to the contrary notwithstanding, a loan made pursuant to this section shall not be voidable by reason of the age of the borrower at the time of receiving the loan.

(8) Failure to repay any loan and interest that becomes due shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth *by the commission on teaching standards and practices* [~~in KRS 161.120~~].

(9) All loans and interest repaid to the Kentucky higher education assistance authority hereunder shall be added to the appropriations made for purposes of this section, and said appropriations shall not lapse.

(10) The authority shall promulgate regulations for administering this section. The authority shall execute appropriate contracts and promissory notes with loan recipients, and the authority may contract with any other appropriate organization or unit of government for the administration of this section.

(11) If insufficient funds are available for requested loans to qualified persons during any fiscal year, the authority shall make pro rata reductions in the loans made to qualifying applicants. Priority consideration shall be given to persons receiving previous loans and participating in the program. A local school district superintendent, who by statute is a state officer, shall not serve as a director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit.

Section 21. KRS 161.760 is amended to read as follows:

(1) Each board of education shall cause notice to be given annually not later than July 1 to each teacher who holds a contract valid for the succeeding school year, stating the best estimate as to the salary to be paid such teacher during such year. Such salary shall not be lower than the salary paid during the preceding school year unless such reduction be a part of a uniform plan affecting all teachers in the entire district, or unless there is a reduction of responsibilities. Nothing herein shall prevent increases of salary after the board's annual notice has been given. All teachers who refuse assignment shall notify the superintendent in writing not later than July 15.

(2) Transfer or change in appointment of teachers after July 15 shall be made only to fill vacancies created by illness, death or resignations; to reduce or increase personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to *161.115* [~~161.120~~] and regulations adopted thereunder, provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.

(3) Upon recommendation of the superintendent and approval of the board of education reduction of responsibility for a teacher may be accompanied by a corresponding reduction in salary provided that written notification setting forth the specific reason or reasons for reduction in responsibility shall be furnished to the teacher not later than May 15.

(4) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.

Section 22. KRS 161.120 is amended to read as follows:

Any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, [~~teachers,~~] supervisors, directors of pupil personnel or other administrative, supervisory [~~or instructional~~] employes may be revoked by the state board for elementary and secondary education, on the written recommendation of the superintendent of public instruction, for immorality, misconduct in office, incompetency or wilful neglect of duty, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification. Before the certificate is revoked the defendant shall be given a copy of the charges against him and an opportunity, upon not less than ten (10) days' notice, to be heard in person or by counsel.

Section 23. Whereas it is of the greatest importance to public education in the Commonwealth to increase the standards for teachers' professional preparation, certification and continuing education, an emergency is declared to exist and this Act shall become effective on July 1, 1988 upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 494** is as follows:

Amend printed copy of **HB 494** on page 1, line 3, after the word "*July*" delete "*1*" and insert in lieu thereof "*15*":

On page 3, line 5, by deleting "*commission on teaching standards and practices*"; and

On page 3, lines 6 and 7, by deleting the brackets and strike throughs; and

On page 5, line 14, by inserting "*active*" in front of "*teachers*"; and on page 5, line 14, after the period "." insert the following sentence:

"*All fifteen (15) members shall have valid teaching certificates.*"; and

On page 5, line 14, by removing the following sentence:

"*The superintendent of public instruction and the executive director of the council on higher education or their designee shall serve as ex officio non-voting members.*"; and

On page 5, line 23, by deleting "*organization with the largest paid institutional membership in the state*"; and inserting in lieu thereof the following:

"*Kentucky association of colleges of teacher education*"; and

On page 16, line 21, delete "*Section 3*" following the word "to" and insert "*subsection 5 of this section*" in lieu thereof; and

On page 16, line 22, delete "*of this Act*"; and

On page 27, line 10, after the word "July" bracket and strike through "1" and insert "*15*"; and

On page 49, lines 15 through 20, delete Section 23. in its entirety.

The Committee Title Amendment to **HB 494** is as follows:

Amend printed copy of **HB 494** by amending the title to read as follows:

"AN ACT relating to educational standards and practices."

HB 543, AN ACT relating to maximum class sizes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) [~~(a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education~~

~~classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).~~

~~(b)~~] Effective July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in [~~vocal and instrumental music, art,~~] physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan

of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board of education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment;

(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.

(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and

(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(13) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(14) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(15) In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.

The Committee Amendment No. 1 to **HB 543** is as follows:

Amend printed copy of **HB 543** on page 5, line 21, by removing the bracket before "vocal" and placing it in front of "art"; and

On page 5, line 21, by removing the strikethroughs from "vocal and instrumental music,".

The Committee Amendment No. 2 to **HB 543** is as follows:

Amend printed copy of **HB 543** on page 16, after line 7 by adding the following:

"Section 2. KRS 158.030 is amended to read as follows:

(1) A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a qualified teacher for a term of eight (8) or more months during the school year and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school as provided by KRS 157.315 or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a public school kindergarten.

(2) Notwithstanding any statute to the contrary, effective July 1, 1986 and any year thereafter, successful completion of kindergarten shall be a prerequisite for a child's entrance into first grade. The state board of education shall establish, by regulation, methods of verifying successful completion of kindergarten and extenuating circumstances for which waiver of the above prerequisite may be granted. The local school district, with the approval of the state department of education, may organize the local kindergarten program in the manner most appropriate to the local situation provided the plan assures that each child receives an average of fifteen (15) hours class time per week. The local district may use five (5) three (3) hour sessions per week; alternate sessions of three (3) days a week with one (1) group and two (2) days a week with a second group with the two (2) groups reversing days every other week; or any other approved plan.

(3) Notwithstanding any statute to the contrary, every resident child of the Commonwealth between the ages of five (5) and twenty-one (21) shall present a valid social security number as a prerequisite for enrollment to the school in which enrollment is anticipated. Said social security number shall thereafter be the assigned student identification number to be used by the pupil in the public elementary and secondary schools of the Commonwealth of Kentucky. A child's age is between five (5) and twenty-one (21) when the child has reached his fifth birthday and has not passed his twenty-first birthday."

The Committee Title Amendment to **HB 543** is as follows:

Amend printed copy of **HB 543**:

Amend Title by deleting "maximum class sizes" and inserting "education" in lieu thereof.

HB 602, AN ACT relating to nonpublic colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any college that violates the provisions of KRS 164.947(3) shall be fined not less than one hundred dollars ($100).

(2) Each day that a college violates the provisions of KRS 164.947(3) shall be deemed a separate offense.

Section 2. KRS 164.945 is amended to read as follows:

As used in KRS 164.945 to 164.947, unless the context otherwise requires:

(1) "College" means any educational facility *or institution* maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, junior college, college, university, or entity of whatever kind which awards a degree, diploma, or other statement of recognition purporting to indicate a level of collegiate attainment beyond secondary school graduation. The following shall be excluded from this definition as it applies to the licensing and regulation requirements of KRS 164.945 to 164.947:

(a) Colleges provided, operated, and supported by federal, state, or county government or any of their political subdivisions.

(b) Colleges licensed or approved for establishment and operation under the statutory authority given to the Kentucky Board of Barbering under KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists under KRS 317A.030, the Kentucky State Board of Business Schools under KRS 165A.310, the Kentucky Board of Nursing Education and Nurse Registration under KRS 314.121, and any statutes governing the proprietary schools.

(2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers or words, such as, but not limited to associate, bachelors, masters, doctorate, or fellow, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.

(3) "Diploma" means a certificate, transcript, report, document, or title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports, or is generally taken to signify attendance, progress, or achievement in an academic program.

Section 3. KRS 164.947 is amended to read as follows:

(1) The council on higher education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a non-public college or to restrict religious instruction or training in a non-public college.

(3) [~~Immediately from March 25, 1972,~~] All colleges as defined herein shall be required to hold a license issued by the executive director of the council on higher education under the provisions of KRS 164.945 to 164.947 and under the regulations of the council on higher education [~~provided that any college actually in operation on March 25, 1972, shall be permitted to continue in operation until a license has been issued or has been denied~~]. *Within ninety (90) days of the effective date of this Act, all colleges shall be required to hold licenses.*

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 [~~or to such institutions which were in operation on March 25, 1972,~~] except that new branches, divisions, or additions to existing institutions shall be licensed.

HJR 81, A JOINT RESOLUTION urging the Department of Education to use any available Federal money to develop and fund community education programs which will promote parental involvement in the education of their children.

WHEREAS, research has demonstrated that parent involvement can significantly bolster student achievement; and

WHEREAS, many parents would like to be involved in the education of their children, but do not know how to do so; and

WHEREAS, community education is ideally structured to teach parents how to assist their children; and

WHEREAS, the state has limited resources to fund such a program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Education shall review Federal guidelines for grant programs to identify funds which may be used to develop and fund community education programs aimed at teaching parents how to provide a better learning environment for their children and encourage school districts to implement such programs. In addition, such funds shall be used to produce learning packets to be used at home by the parents.

Section 2. That a copy of this resolution shall be sent to the Superintendent of Public Instruction.

SB 49, AN ACT relating to adult literacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.499 is amended to read as follows:

All boards, commissions, councils and committees established by 1985 Ex. S., Ch. 10, except for the school facilities construction commission *and the governor's commission on literacy*, shall be terminated as of June 30, 1988. Any program affected by this section which is continued beyond June 30, 1988, shall receive oversight from the state board of education after that date.

Section 2. KRS 158.790 is amended to read as follows:

(1) The governor's commission on literacy is hereby established and is attached to the office of the secretary of the education and humanities cabinet.

(2) The members of the commission on literacy shall be appointed by the governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult literacy programs.

(3) Members shall be appointed for a term of four (4) years *or until their successors are appointed and qualified*, and shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employes. Members may be reappointed to the commission. *In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which the member has been appointed.*

(4) The duties of the commission on literacy shall be to:

(a) Formulate a statewide strategy and program plan for adult literacy;

(b) Review and recommend grants to public and private groups to support literacy programs;

(c) Review and evaluate literacy programs and report findings and recommendations to the governor, the legislative research commission, and appropriate cabinet and department heads;

(5) Provide a public information and education program to promote literacy;

(6) Enroll the support of business and industry for literacy programs; [~~and~~]

(7) Perform such other functions as may be assigned by the governor*;*

(8) Employ an executive director and other necessary personnel within the limits of funds made available; and

(9) Conduct research projects or make studies into and publish reports on the extent of illiteracy in Kentucky.

Section 3. KRS 158.795 is amended to read as follows:

As an agency of the education and humanities cabinet, the governor's commission on literacy shall administer a statewide adult literacy program [~~The education and humanities cabinet shall administer a statewide adult literacy program with the advice and counsel of the governor's commission on literacy~~]. Subject to the availability of resources, services shall be provided in every county for the operation of adult literacy programs.

The Committee on Labor and Industry reported **HB 632** with Committee Substitute attached thereto, **HB 640** with Committee Substitute attached thereto, and **HCR 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 632. AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner or any person authorized to act in his behalf shall initiate enforcement of civil penalties imposed in KRS Chapters 336, 337 and 339 in the manner prescribed in this chapter.

(2) When the commissioner or his authorized representative receives information that he deems sufficient to determine that a violation of KRS Chapter 336, 337 or 339 has occurred, he shall seek civil penalties.

(3) The commissioner or his authorized representative shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) (a) If within fifteen (15) working days from the receipt of the citation a cited party fails to notify the commissioner or his authorized representative that he intends to contest the citation, then the citation shall be deemed final.

(b) If a cited party notifies the commissioner or his authorized representative that he intends to challenge a citation, the commissioner or his authorized representative shall cause the matter to be heard as soon as practicable. A ruling thereon shall be issued by the commissioner or his designated representative within fifteen (15) days of the hearing.

(c) A cited party may appeal the ruling of the commissioner or his designated representative within fifteen (15) days following the issuance of the ruling to the circuit court in the county where the violation occurred.

(d) Any civil penalty imposed pursuant to KRS Chapter 336, 337 or 339 may be compromised by the commissioner or his designated representative. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, the number of times the person charged has been cited, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered. The amount of the penalty when finally determined or the amount agreed upon in compromise may be recovered as provided in this section.

Section 2. KRS 336.990 is amended to read as follows:

(1) Upon proof that any person employed by the department as a labor inspector has taken any part in any strike, lockout or similar labor dispute he shall forfeit his office.

(2) In addition to the provisions contained in subsection (1) of this section, the following civil penalties shall be imposed, in accordance with the provisions in section 1 of this Act, for violations of the provisions of this chapter:

(a)[~~(2)~~] Any person who violates KRS 336.110 shall for each offense be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~twenty-five dollars ($25.00)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100) or imprisoned for not more than fifty (50) days, or both~~].

(b)[~~(3)~~] Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be *assessed a civil penalty of* [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.

(c)[~~(4)~~] Any employer who violates the provisions of KRS 336.220 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each violation.

Section 3. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in Section 1 of this Act, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership or corporation that violates KRS 337.020 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25.00)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100)~~] for each offense. Each failure to pay an employe the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25.00)~~] nor more than *one thousand* [~~two hundred~~] dollars *($1,000)* [~~($200) or imprisoned for not more than thirty (30) days, or both~~].

(3) Any person who violates KRS 337.060 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than *one* [~~three~~] hundred dollars *($100) nor more than one thousand dollars ($1,000)* [~~($300) or imprisoned for not more than sixty (60) days, or both~~].

(4) Any employer who violates any provision of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any such record, or refuses to make any such record or transcription thereof accessible to the commissioner or his authorized representative shall *be assessed a civil penalty of*[~~; upon conviction therefor be fined~~] not less than one hundred dollars ($100) nor more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~].

(5) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto *shall be assessed a civil penalty of* [~~; shall, upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than *one thousand* [~~five hundred~~] dollars *($1,000)* [~~($500)~~].

(6) Any employer who discharges or in any other manner discriminates against any employe because such employe has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because such employe has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because such employe has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 and shall *be assessed a civil penalty of* [~~; upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~].

(7) Any person who violates KRS 337.530 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000).*

(8) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each offense, and said contractor or subcontractor shall make full restitution to all employes to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employe of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(9) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 or 337.550 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each offense. Each

day of violation shall constitute a separate offense. Where a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and such failure results in damages, injury or loss to any person, such public authority, public official, or member of a public authority may be held liable therefor in a civil action.

(10) Any person who fails to comply with KRS 337.070 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~ten dollars ($10.00)~~], nor more than *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each offense and each day that such failure continues shall be deemed a separate offense.

(11) Any employer who violates the provisions of KRS 337.065 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~fifty dollars ($50.00) or~~] *nor* more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~] for each offense and shall make full payment to the employe by reason of said violation.

(12) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000).

(13) Any person who discharges or in any other manner discriminates against an employe because such employe has:

1. Made any complaint to his employer, the commissioner, or any other person; or

2. Instituted, or caused to be instituted any proceeding under or related to KRS 337.420 to 337.433; or

3. Testified or is about to testify in any such proceedings, shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(14) (a) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employe by reason of said violation. Each failure to pay an employe the wages as required by KRS 337.055 shall constitute a separate offense.

(b) Any employer who violates KRS 337.060 shall be liable to the affected employe for the amount withheld plus interest at the rate of ten percent (10%) per annum.

Section 4. KRS 339.990 is amended to read as follows:

Whoever employs or permits or suffers any minor to be employed or to work in violation of KRS 339.210 to 339.450, or of any order or ruling issued under the provisions thereof, or obstructs the department of workplace standards, its officers, or agents, or any other person authorized to inspect places of employment under KRS 339.210 to 339.450, or whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of KRS 339.210 to 339.450, or who sells to a minor any article with the knowledge that the minor intends to sell said article in violation of KRS 339.210 to 339.450 shall be *assessed a civil penalty, in accordance with the provisions of Section 1 of this Act, of* [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). Every employer who continues to employ a minor in violation of KRS 339.210 to 339.450 after he has been notified by the department of workplace standards, its officers or agents, shall be *assessed a civil penalty, in accordance with the provisions in Section 1 of this Act, of* [~~fined~~] one hundred dollars ($100) for each day the violation continues and the employment of any minor in violation of KRS 339.210 to 339.450 shall with respect to each minor so employed constitute a separate and distinct offense.

Section 5. KRS 337.420 is amended to read as follows:

(1) "Employe" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

(2) "Employer" means a person who has two (2) or more employes within the state in each of twenty

(20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employe benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) "Employ" includes to suffer or permit to work.

(5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.

(6) "Commissioner" means the commissioner of the department of workplace standards under the direction and supervision of the secretary of labor.

(7) "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 6. KRS 337.423 is amended to read as follows:

(1) No employer shall discriminate between employes in the same establishment on the basis of sex, by paying wages to any employe in any occupation in this state at a rate less than the rate at which he pays any employe of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, are not within this prohibition provided, however, that nothing in KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] and when said employer files with the commissioner of the department of workplace standards a statement that said employer is covered by the federal Fair Labor Standards Act of 1938, as amended.

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall not, in order to comply with it, reduce the wage rates of any employe.

(3) No person shall cause or attempt to cause an employer to discriminate against any employe in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) No employer may discharge or discriminate against any employe by reason of any action taken by such employe to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

Section 7. KRS 337.425 is amended to read as follows:

(1) For this purpose, the commissioner, or his authorized representative, shall have power to enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to the administration and enforcement of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(2) The commissioner or his authorized representative shall have power to examine witnesses under oath, and to require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~]. In the event of the failure of a person to attend, testify or produce documents under or in response to a subpoena, the circuit court in the judicial circuit wherein the hearing is being held, on application of the commissioner or his representative, may issue an order requiring said person to appear before the commissioner or his authorized representative, or to produce documentary evidence, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(3) The commissioner is authorized to endeavor to eliminate pay practices unlawful under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] by informal methods of conference, conciliation and persuasion,

and to supervise the payment of wages owing to any employe under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) The commissioner shall have power to issue such regulations not inconsistent with the purpose of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~], as he deems necessary or appropriate to carry out its provisions.

Section 8. KRS 337.427 is amended to read as follows:

(1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employe or employes affected in the amount of their unpaid wages, and in instances of wilful violation in employe suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.

(2) Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employes for and in behalf of himself or themselves and other employes similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(3) No agreement by any such employe to work for less than the wage to which such employe is entitled under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) At the written request of any employe claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~], the commissioner may bring any legal action necessary in behalf of the employe to collect such claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action. The commissioner shall have power to join various claims against the employer in one (1) cause of action.

(5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employes discharged in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(6) The commissioner shall on his own motion have power to petition any court of competent jurisdiction to restrain violations of KRS 337.423, and to petition for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employes, consistent with the purpose of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

Section 9. KRS 337.430 is amended to read as follows:

Court action under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] may be commenced no later than six (6) months after the cause of action occurs.

Section 10. KRS 337.433 is amended to read as follows:

Every person subject to KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall keep an abstract or copy of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] posted in a conspicuous place in or about the premises wherein any employe is employed. Employers shall be furnished copies or abstracts of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] by the state on request without charge.

Section 11. The following KRS sections are repealed:

337.991 Penalty.

337.992 Penalties.

337.993 Penalties.

The Committee Substitute to **HB 632** is as follows:

HB 632. AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner or any person authorized to act in his behalf shall initiate enforcement of civil penalties imposed in KRS Chapters 336, 337 and 339.

(2) Any civil penalty imposed pursuant to KRS Chapter 336, 337 or 339 may be compromised by the commissioner or his designated representative. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, the number of times the person charged has been cited, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered.

Section 2. KRS 336.990 is amended to read as follows:

(1) Upon proof that any person employed by the department as a labor inspector has taken any part in any strike, lockout or similar labor dispute he shall forfeit his office.

(2) In addition to the provisions contained in subsection (1) of this section, the following civil penalties shall be imposed for violations of the provisions of this chapter:

(a)[~~(2)~~] Any person who violates KRS 336.110 shall for each offense be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~twenty-five dollars ($25.00)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100) or imprisoned for not more than fifty (50) days, or both~~].

(b)[~~(3)~~] Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be *assessed a civil penalty of* [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.

(c)[~~(4)~~] Any employer who violates the provisions of KRS 336.220 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each violation.

Section 3. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in Section 1 of this Act, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership or corporation that violates KRS 337.020 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25.00)~~] nor more than one *thousand* [~~hundred~~] dollars *($1,000)* [~~($100)~~] for each offense. Each failure to pay an employe the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25.00)~~] nor more than *one thousand* [~~two hundred~~] dollars *($1,000)* [~~($200) or imprisoned for not more than thirty (30) days, or both~~].

(3) Any person who violates KRS 337.060 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than *one* [~~three~~] hundred dollars *($100) nor more than one thousand dollars ($1,000)* [~~($300) or imprisoned for not more than sixty (60) days, or both~~].

(4) Any employer who violates any provision of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any such record, or refuses to make any such record or transcription thereof accessible to the commissioner or his authorized representative shall *be assessed a civil penalty of*[~~, upon conviction~~

~~therefor be fined~~] not less than one hundred dollars ($100) nor more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~].

(5) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto *shall be assessed a civil penalty of* [~~, shall, upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than *one thousand* [~~five hundred~~] dollars *($1,000)* [~~($500)~~].

(6) Any employer who discharges or in any other manner discriminates against any employe because such employe has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because such employe has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because such employe has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 and shall *be assessed a civil penalty of* [~~, upon conviction therefor, be fined~~] not less than one hundred dollars ($100) nor more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~].

(7) Any person who violates KRS 337.530 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000).*

(8) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each offense, and said contractor or subcontractor shall make full restitution to all employes to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employe of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(9) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 or 337.550 shall be *assessed a civil penalty of* [~~fined~~] not *less* [~~more~~] than one hundred dollars ($100) *nor more than one thousand dollars ($1,000)* for each offense. Each day of violation shall constitute a separate offense. Where a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and such failure results in damages, injury or loss to any person, such public authority, public official, or member of a public authority may be held liable therefor in a civil action.

(10) Any person who fails to comply with KRS 337.070 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~ten dollars ($10.00)~~], nor more than *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each offense and each day that such failure continues shall be deemed a separate offense.

(11) Any employer who violates the provisions of KRS 337.065 shall be *assessed a civil penalty of* [~~fined~~] not less than *one hundred dollars ($100)* [~~fifty dollars ($50.00) or~~] *nor* more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~] for each offense and shall make full payment to the employe by reason of said violation.

(12) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000).

(13) Any person who discharges or in any other manner discriminates against an employe because such employe has:

1. Made any complaint to his employer, the commissioner, or any other person; or

2. Instituted, or caused to be instituted any proceeding under or related to KRS 337.420 to 337.433; or

3. Testified or is about to testify in any such proceedings, shall be assessed a civil penalty of not less *than one hundred dollars ($100) nor more than one thousand dollars ($1,000).*

(14) (a) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employe by reason of said violation. Each failure to pay an employe the wages as required by KRS 337.055 shall constitute a separate offense.

(b) Any employer who violates KRS 337.060 shall be liable to the affected employe for the amount withheld plus interest at the rate of ten percent (10%) per annum.

Section 4. KRS 339.990 is amended to read as follows:

Whoever employs or permits or suffers any minor to be employed or to work in violation of KRS 339.210 to 339.450, or of any order or ruling issued under the provisions thereof, or obstructs the department of workplace standards, its officers, or agents, or any other person authorized to inspect places of employment under KRS 339.210 to 339.450, or whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of KRS 339.210 to 339.450, or who sells to a minor any article with the knowledge that the minor intends to sell said article in violation of KRS 339.210 to 339.450 shall be *assessed a civil penalty, in accordance with the provisions of Section 1 of this Act, of* [~~fined~~] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). Every employer who continues to employ a minor in violation of KRS 339.210 to 339.450 after he has been notified by the department of workplace standards, its officers or agents, shall be *assessed a civil penalty, in accordance with the provisions in Section 1 of this Act, of* [~~fined~~] one hundred dollars ($100) for each day the violation continues and the employment of any minor in violation of KRS 339.210 to 339.450 shall with respect to each minor so employed constitute a separate and distinct offense.

Section 5. KRS 337.420 is amended to read as follows:

(1) "Employe" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

(2) "Employer" means a person who has two (2) or more employes within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employe benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) "Employ" includes to suffer or permit to work.

(5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.

(6) "Commissioner" means the commissioner of the department of workplace standards under the direction and supervision of the secretary of labor.

(7) "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 6. KRS 337.423 is amended to read as follows:

(1) No employer shall discriminate between employes in the same establishment on the basis of sex, by paying wages to any employe in any occupation in this state at a rate less than the rate at which he pays any employe of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, are not within this prohibition provided, however, that nothing in KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable

or greater requirements than contained in KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] and when said employer files with the commissioner of the department of workplace standards a statement that said employer is covered by the federal Fair Labor Standards Act of 1938, as amended.

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall not, in order to comply with it, reduce the wage rates of any employe.

(3) No person shall cause or attempt to cause an employer to discriminate against any employe in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) No employer may discharge or discriminate against any employe by reason of any action taken by such employe to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

Section 7. KRS 337.425 is amended to read as follows:

(1) For this purpose, the commissioner, or his authorized representative, shall have power to enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to the administration and enforcement of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(2) The commissioner or his authorized representative shall have power to examine witnesses under oath, and to require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~]. In the event of the failure of a person to attend, testify or produce documents under or in response to a subpoena, the circuit court in the judicial circuit wherein the hearing is being held, on application of the commissioner or his representative, may issue an order requiring said person to appear before the commissioner or his authorized representative, or to produce documentary evidence, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(3) The commissioner is authorized to endeavor to eliminate pay practices unlawful under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] by informal methods of conference, conciliation and persuasion, and to supervise the payment of wages owing to any employe under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) The commissioner shall have power to issue such regulations not inconsistent with the purpose of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~], as he deems necessary or appropriate to carry out its provisions.

Section 8. KRS 337.427 is amended to read as follows:

(1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employe or employes affected in the amount of their unpaid wages, and in instances of wilful violation in employe suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.

(2) Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employes for and in behalf of himself or themselves and other employes similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(3) No agreement by any such employe to work for less than the wage to which such employe is entitled under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(4) At the written request of any employe claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~], the commissioner may bring any legal action necessary in behalf of the employe to collect such claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action. The commissioner shall have power to join various claims against the employer in one (1) cause of action.

(5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employes discharged in violation of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

(6) The commissioner shall on his own motion have power to petition any court of competent jurisdiction to restrain violations of KRS 337.423, and to petition for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employes, consistent with the purpose of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~].

Section 9. KRS 337.430 is amended to read as follows:

Court action under KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] may be commenced no later than six (6) months after the cause of action occurs.

Section 10. KRS 337.433 is amended to read as follows:

Every person subject to KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] shall keep an abstract or copy of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] posted in a conspicuous place in or about the premises wherein any employe is employed. Employers shall be furnished copies or abstracts of KRS 337.420 to 337.433 and *KRS 337.990(13)* [~~337.992~~] by the state on request without charge.

Section 11. The following KRS sections are repealed:

337.991 Penalty.

337.992 Penalties.

337.993 Penalties.

HB 640, AN ACT relating to labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the labor cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the labor cabinet shall be the custodian of the fund and all moneys and securities in the fund shall be held in trust by the secretary of the labor cabinet and shall not be considered a part of the general funds of the state.

(2) The secretary of the labor cabinet is authorized to disburse moneys from the fund only upon written order of the administrative law judge or the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.

(4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of the amounts authorized to be paid therefrom under the authority of this subsection and for the purposes of enforcing this liability the labor cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund.

(5) In furtherance of this purpose, the attorney general shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The *attorney general* [~~labor cabinet~~] shall be responsible for the administration of the uninsured employers' fund and *the labor cabinet* shall be charged with the conservation of the assets of the

fund.

(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the state treasury shall be transferred to the uninsured employers' fund created within the labor cabinet pursuant to this section.

Section 2. KRS 342.770 is amended to read as follows:

(1) Upon the filing of a claim the commissioner shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.630 or 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Upon determination that any employer under this chapter has failed to comply with the provisions of KRS 342.340, the commissioner shall record, as provided by subsection (2) of this section, a certificate prepared and furnished him by the *attorney* general [~~counsel~~] showing the date on which such claim was filed, the date of the injury alleged, the name and last known address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required. Upon recordation, such certificate constitutes a valid lien against the assets of the employer in favor of the uninsured employers' fund for the whole amount which may be due as compensation. Such lien shall be superior to the lien of any mortgage or other encumbrance thereafter created and shall continue for *twenty (20)* [~~ten (10)~~] years from the time of such recording, unless sooner released or otherwise discharged. A copy of such certificate shall be served upon the employer by the commissioner.

(2) The certificate constituting a lien in favor of the uninsured employers' fund shall be filed in the following offices:

(a) The office of the county clerk of the county in which the defendant employer resides.

(b) The office of the county clerk of the county in which the defendant employer has its principal place of business.

(c) The office of the county clerk in the counties where such employer's property is located.

The Committee Substitute to **HB 640** is as follows:

HB 640, AN ACT relating to labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the labor cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the labor cabinet shall be the custodian of the fund and all moneys and securities in the fund shall be held in trust by the secretary of the labor cabinet and shall not be considered a part of the general funds of the state.

(2) The secretary of the labor cabinet is authorized to disburse moneys *for workers' compensation claims* from the fund only upon written order of the administrative law judge or the board. *Transfer of moneys to reimburse the attorney general's office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the attorney general's office and approval by the secretary of the labor cabinet.*

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.

(4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of the amounts authorized to be paid therefrom under the authority of this subsection and for the purposes of enforcing

this liability the labor cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund.

(5) In furtherance of this purpose, the attorney general shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The *attorney general's office* [~~labor cabinet~~] shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the state treasury shall be transferred to the uninsured employers' fund created within the labor cabinet pursuant to this section.

Section 2. KRS 342.770 is amended to read as follows:

(1) Upon the filing of a claim the commissioner shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.630 or 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Upon determination that any employer under this chapter has failed to comply with the provisions of KRS 342.340, the commissioner shall record, as provided by subsection (2) of this section, a certificate prepared and furnished him by the *attorney* general [~~counsel~~] showing the date on which such claim was filed, the date of the injury alleged, the name and last known address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required. Upon recordation, such certificate constitutes a valid lien against the assets of the employer in favor of the uninsured employers' fund for the whole amount which may be due as compensation. Such lien shall be superior to the lien of any mortgage or other encumbrance thereafter created and shall continue for ten (10) years from the time of such recording, unless sooner released or otherwise discharged. A copy of such certificate shall be served upon the employer by the commissioner.

(2) The certificate constituting a lien in favor of the uninsured employers' fund shall be filed in the following offices:

(a) The office of the county clerk of the county in which the defendant employer resides.

(b) The office of the county clerk of the county in which the defendant employer has its principal place of business.

(c) The office of the county clerk in the counties where such employer's property is located.

HCR 64, A CONCURRENT RESOLUTION encouraging Kentucky employers and businesses: to hire only those employes who have a high school diploma or its equivalent or who are working toward obtaining either; to develop incentives to encourage employes to complete a high school or GED program; and to develop programs to enable employes to complete a high school or GED program.

WHEREAS, Kentucky has one of the three highest dropout rates in the United States with half of the state's children dropping out before finishing high school; and

WHEREAS, Kentucky leads the nation in the percentage of adults over 25 who are functionally illiterate; and

WHEREAS, Kentucky's mainstays — tobacco, whiskey and coal face an uncertain and bleak future and Kentucky must now prepare to compete in a global market that is technologically-oriented; and

WHEREAS, Kentucky's success in attracting new industry to the state will no longer depend on its supply of cheap labor, but the quality of a well-trained and skillful workforce; and

WHEREAS, the average American worker will have five different kinds of jobs requiring new skills and training during his career and will need to be, not only highly trained, but capable of continuing his education throughout his working life; and

WHEREAS, Kentucky's dwindling workforce will need to be well prepared in order to sustain the state's growing number of dependent persons;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That Kentucky employers and businesses are encouraged to hire employes with a high school diploma or GED certificate or someone who is working toward obtaining either.

Section 2. That Kentucky employers and businesses are encouraged to develop incentives to encourage employes to complete a high school or GED program.

Section 3. That Kentucky employers and businesses are encouraged to develop programs to enable employes to complete a high school or GED program.

Section 4. That a copy of this resolution be sent to the Governor, the Secretary of Economic Development, the Secretary of Labor, the Superintendent of Public Instruction, the Kentucky Chamber of Commerce, the Associated Industries of Kentucky, the National Federation of Independent Business, the Kentucky Retail Federation, Incorporated, and the Kentucky Restaurant Association.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 4**, **SB 20**, **SB 72**, **HB 386**, **HB 446**, **HB 479**, **HJR 31** and **HJR 60** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:15 p.m.)

HB 386, **HB 446**, **HB 479**, **HJR 31** and **HJR 60** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Representative Stumbo moved that **HB 180** be recommitted to the Committee on Education. Agreed.

Orders of the Day

HCR 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 92** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 1, 1988 roll call on **HCR 92** - Appendix A.)

HCR 92 was passed and the title agreed to.

Representative Gray moved that the vote by which **HCR 92** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 19, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Substitute to **HB 19**. Agreed.

Representative Morris moved that **HB 19**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 1, 1988 roll call on **HB 19** - Appendix A.)

HB 19, by way of Committee Substitute, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 19**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 345, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Substitute to **HB 345**. Agreed.

Representative Kerr moved the adoption of Floor Amendment No. 1 to Committee Substitute to **HB 345**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 345**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 345**.

On the roll call the vote was yeas 63-Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, J. Brown, M. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Cyrus, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Guenthner, Handy, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lile, Little, Lundergan, Lyne, Maggard, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Ridley, Riner, Robinson, Seum, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Will. Nays 19-Ballard, Barrows, Blevins, Burch, Curd, Deskins, Hatcher, Jackson, T. Jones, LeMaster, Mason, Meyer, Priddy, Richards, P. Richardson, Scorsone, B. Smith, Worthington, Yates.

Floor Amendment No. 3 to the Committee Substitute to **HB 345** was adopted.

Representative Blevins moved that **HB 345**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 19. (See March 1, 1988 roll call on **HB 345** - Appendix A.)

HB 345, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 345**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 582, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 582** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 1, 1988 roll call on **HB 582** - Appendix A.)

HB 582 was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 582** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Rapier moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 118, by Representative Rapier: A RESOLUTION commending the Office of Vocational Rehabilitation of the Kentucky Department of Education.

Representative Rapier moved the adoption of the following **HR 118**:

HR 118, A RESOLUTION commending the Office of Vocational Rehabilitation of the Kentucky Department of Education.

WHEREAS, the Kentucky General Assembly provided matching funds to legally establish the Kentucky program of Vocational Rehabilitation in 1922 under the administration of the State Board of Education; and

WHEREAS, the Office of Vocational Rehabilitation provides services in every county, to Kentuckians with disabilities to enable them to enter employment; and

WHEREAS, the Kentucky Legislature provides $1 state general revenue funds to match $4 in federal funds; and

WHEREAS, for every dollar invested in vocational rehabilitation of Kentuckians with disabilities, $11.44 is returned to the economy; and

WHEREAS, in 1987 the successfully rehabilitated clients of vocational rehabilitation earned $29,998,592 and paid $6,300,000 in taxes; and

WHEREAS, in over 66 years, 179,503 Kentuckians with disabilities have entered employment due to the efforts of vocational Rehabilitation; and

WHEREAS, the Superintendent's Advisory Council for Vocational rehabilitation is composed of private volunteer citizens who are dedicated to the mission and principle that all Kentuckians, including those with disabilities, should have the opportunity to work and pay taxes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes and applauds the efforts of the Office of Vocational Rehabilitation and those Kentuckians with disabilities that the program serves.

Section 2. The House recognizes the need for additional funding and concurs with the Superintendent's Advisory Council for Vocational Rehabilitation that diligent effort is needed to provide sufficient state funds to match available federal dollars in order to afford Kentuckians with disabilities the opportunity to work and become productive members of the Commonwealth.

HR 118 was adopted by voice vote.

Orders of the Day (continued)

HB 357 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 357** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 1, 1988 roll call on **HB 357** - Appendix A.)

HB 357 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 324, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of the Committee Substitute to **HB 324**. Agreed.

Representative M. Brown moved that **HB 324**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 1, 1988 roll call on **HB 324** - Appendix A.)

HB 324, by way of Committee Substitute, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HB 324**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed to **SB 8**.

HB 548, with Committee Substitute and Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Substitute to **HB 548**. Agreed.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 548**. Agreed.

Representative Kerr moved that **HB 548**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 1, 1988 roll call on **HB 548** - Appendix A.)

HB 548, by way of Committee Substitute as amended, was passed.

Representative Kerr moved the adoption of Committee Title Amendment to **HB 548**. Agreed; and the title was agreed to.

Representative Kerr moved that the vote by which **HB 548**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 353, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 353**. Agreed.

Representative Richards moved that **HB 353**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 1, 1988 roll call on **HB 353** - Appendix A.)

HB 353, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 353**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 556, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved the adoption of Committee Amendment No. 1 to **HB 556**. Agreed.

Representative Handy moved that **HB 556**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 1, 1988 roll call on **HB 556** - Appendix A.)

HB 556, as amended, was passed and the title agreed to.

Representative Handy moved that the vote by which **HB 556**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 527 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved that **HB 527** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 1, 1988 roll call on **HB 527** - Appendix A.)

HB 527 was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 527** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Layman moved that **SCR 45** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 1, 1988 roll call on **SCR 45** - Appendix A.)

SCR 45 was passed and the title agreed to.

Representative Layman moved that the vote by which **SCR 45** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 487 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 487** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 1, 1988 roll call on **HB 487** - Appendix A.)

HB 487 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 487** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 489 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 489** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 1, 1988 roll call on **HB 489** - Appendix A.)

HB 489 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 489** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 491 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 491** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 1, 1988 roll call on **HB 491** - Appendix A.)

HB 491 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 491** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 612 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 612** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 1, 1988 roll call on **HB 612** - Appendix A.)

HB 612 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 612** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 613 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 613** be passed.

On the roll call the vote was: Yeas 84, Nays 8. (See March 1, 1988 roll call on **HB 613** - Appendix A.)

HB 613 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 613** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 214 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 214** be passed.

On the roll call the vote was: Yeas 81, Nays 4. (See March 1, 1988 roll call on **SB 214** - Appendix A.)

SB 214 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 214** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 2, as amended by House Committee Substitute, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Richards moved the adoption of the following Free Conference Committee Report on **SB 2**. Agreed.

The free conference committee has met as provided in the rules of the House and Senate and hereby reports the following to be adopted:

HCS for **SB 2** with the following changes:

On page 3, line 22, delete the words "*Upon a finding*", and insert in lieu thereof the words "*After review*"; and,

On page 3, line 23, delete the words "*that the regulation is deficient in a*": and,

On page 3, line 24, delete the words "*manner provided in KRS 13A.030(2)(a)*"; and,

On page 7, line 16, insert the word "*a*" before the word "the"; and

On page 7, line 16, bracket and strike through the word "the"; and,

On page 7, line 16, delete the words "*administrative regulation*"; and,

On page 7, line 17, delete the word "*review*"; and,

On page 7, line 17, add the following words after the word "proposal": "*pursuant to KRS 13A.290(7)*"; and,

On page 7, line 17, delete the words "*if the*"; and,

On page 7, deletes lines 18 through 22 in their entirety; and,

On page 7, line 23, after the "*(2)*", delete the words on line 23; and,

On page 7, delete lines 24 through 26 in their entirety; and,

On page 8, delete lines 1 through 4 in their entirety; and,

On page 8, line 5, delete "*13A.290(7).*"; and, On page 8, line 10, delete "*pursuant*"; and,

On page 8, line 11, delete "*to subsection (2) of this section*"; and,

On page 8, line 12, delete "*pursuant to subsection (2) of this*"; and,

On page 8, line 13, delete "*section,*"; and,

On page 8, line 13, delete "*subcommittee*"; and,

On page 8, line 13, after the word "*finding*" insert the words "*by either the administrative regulation review subcommittee or subsequently assigned subcommittee*"; and,

On page 8, line 15, before the word "*authorized*" insert the words "*provided in KRS 13A.030(2)(a) or*"; and

On page 8, line 15, delete the words "*authorized by*".

Direct the clerk, on enrollment, to make appropriate section number changes to conform with this report.

Signed by: Senators Fred Bradley, Harold Haering, Bill Clouse; Representatives Ronnie Layman, James Bruce, Mark O'Brien.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Richards moved that **SB 2**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See, 1988 roll call on **SB 2** - Appendix A.)

SB 2, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 2**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 3** is as follows:

Amend printed copy of **HB 3** on the second line of the title, after the word "Commonwealth" by inserting the word, "and declaring an emergency".

Representative Seum moved that the House concur in Senate Amendment No. 1 to **HB 3**. Agreed.

Representative Seum moved that **HB 3**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 1, 1988 roll call on **HB 3** - Appendix A.)

HB 3, as amended by the Senate, was passed and the title agreed to.

Representative Seum moved that the vote by which **HB 3**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 119, by Representatives Hancock and Crupper: A RESOLUTION adjourning the House of Representatives in honor of Marshall Tyler Long.

Representative Hancock moved the adoption of the following **HR 119**:

HR 119. A RESOLUTION adjourning the House of Representatives in honor of Marshall Tyler Long.

WHEREAS, Marshall Tyler Long of Shelbyville, Kentucky, is fourteen years of age; and

WHEREAS, Marshall Tyler Long is a ninth grade student at the Shelby County High School; and

WHEREAS, Marshall Tyler Long is the loving son of Representative and Mrs. Marshall Long; and

WHEREAS, Marshall Tyler Long is undergoing open heart surgery at the Kosair Children's Hospital in Louisville, Kentucky, on Tuesday, March 1, 1988;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That on behalf of this body, and on behalf of all Kentuckians, best wishes and warm regards are extended to Marshall Tyler Long.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky prays that Marshall Tyler Long has a safe and speedy recovery from his operation.

Section 3. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky extends its best wishes and prayers of love and support for the family members of Marshall Tyler Long during his recuperation.

Section 4. That when the House of Representatives adjourns this day, Tuesday, March 1, 1988, it does so in honor of Marshall Tyler Long.

Section 5. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Marshall Tyler Long, P.O. Box 505, Shelbyville, Kentucky, 40065.

HR 119 was adopted by voice vote.

Representative Hancock moved that a call of the roll be taken to show co-sponsors of **HR 119**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 119**: Ackerson, Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Johnson moved that the Conference Committee Report on **SB 8** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 8**.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 907, by Representative Callahan: AN ACT relating to municipal public ways.

HB 908, by Representatives Callahan and Donnermeyer: AN ACT relating to alcoholic beverage control.

HB 909, by Representatives Yates and Seum: AN ACT changing the classification of the City of Shively, Jefferson County.

HB 910, by Representatives Donnermeyer, Burch and Cyrus: AN ACT relating to fire protection sprinkler contractors.

HB 911, by Representative Geveden: AN ACT relating to planning and zoning.

HB 912, by Representative Geveden: AN ACT relating to highways.

HB 913, by Representatives Callahan and Donnermeyer: AN ACT relating to alcoholic beverage control.

HB 914, by Representatives Priddy, Yates, L. Clark, McBee, Bronger, P. Clark and Donnermeyer: AN ACT relating to complaints against police officers.

HB 915, by Representative Priddy: AN ACT relating to collective bargaining.

HB 916, by Representative A. Jones: AN ACT relating to workers' compensation.

HB 917, by Representative Little: AN ACT relating to revenue and taxation and declaring an emergency.

HB 918, by Representative Preston: AN ACT relating to public housing agencies.

HB 919, by Representatives Cyrus, Deskins and Donnermeyer: AN ACT relating to collective bargaining.

HB 920, by Representatives Strong and Noe: AN ACT relating to solid waste management.

HB 921, by Representatives Bruce and B. Smith: AN ACT relating to motor fuels taxes.

HB 922, by Representative Hancock: AN ACT relating to the board of claims.

HB 923, by Representative Hancock: AN ACT relating to capital construction budgeting.

HB 924, by Representative Hatcher: AN ACT relating to purchasing.

HB 925, by Representative Hatcher: AN ACT relating to crimes, punishments and the reporting thereof.

HB 926, by Representative Lear: AN ACT relating to revenue and taxation and declaring an emergency.

HB 927, by Representative Deskins: AN ACT relating to kindergarten.

HB 928, by Representative Deskins: AN ACT relating to education.

HB 929, by Representative Maggard: AN ACT relating to coal mining regulations.

HB 930, by Representative T. Jones: AN ACT relating to hazardous waste management.

HB 931, by Representative R. Smith: AN ACT relating to water resources.

HB 932, by Representatives Blandford, Stumbo, Richards, Rapier, Worthington, K. Harper, Allen and Lile: AN ACT relating to the provision of information and data.

HB 933, by Representatives B. Smith, Turner and Altman: AN ACT relating to fuel-grade alcohol production.

HB 934, by Representatives Deskins and Little: AN ACT relating to economic development and making the appropriations therefor.

HB 935, by Representatives Meyer, Callahan, Kerr, K. Harper and Walker: AN ACT relating to sanitation districts.

HB 936, by Representative Deskins: AN ACT relating to polygraph examinations.

HB 937, by Representative Bronger: AN ACT relating to coal severance and processing taxes.

HB 938, by Representative T. Jones: AN ACT relating to municipal premium taxes.

HB 939, by Representative Walker: AN ACT relating to sick leave.

HCR 120, by Representatives Robinson, Little, Siler, Keith, Strong, Altman, Gedling, Napier, Farrow, Ridley, Lile, Hancock, Deskins and Maggard: A CONCURRENT RESOLUTION endorsing the concept of exporting coal by wire as electricity, and directing a study of its feasibility.

HJR 121, by Representative Deskins: A JOINT RESOLUTION creating the Kentucky Energy Transportation Council and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 777**, **HB 849**, **HB 814**, **HB 786**, **HB 768**, **HB 723**, **HB 717**.

Natural Resources and Environment: **HB 709**, **HB 519**, **HB 793**.

Business Organizations and Professions: **HB 728**, **HB 752**, **HB 841**.

Appropriations and Revenue: **HB 760**, **HB 597**.

State Government: **HCR 114**, **HB 761**, **HB 855**, **SB 163**.

Labor and Industry: **HB 809**.

Health and Welfare: **HB 829**.

The Clerk announced the following bill has been withdrawn from Committee Consideration:

State Government: **SB 216**.

Report of Committees

The Committee on Transportation reported **HB 238** with Committee Substitute attached thereto, **HB 378** with Committee Substitute attached thereto, **HB 627** with Committee Amendment attached thereto, **HB 689**, **HB 715**, **HJR 46**, **SB 12** and **SB 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 238, AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.178 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25.00) *per plate*, owners of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the general assembly shall be issued *no more than two (2)* [~~an additional~~] five (5) year license *plates for use on no more than two (2) vehicles owned by the applicant, and the design of which, in lieu of the usual registration number, shall be as follows: the upper one fourth section shall indicate whether the applicant is a senator or representative (i.e. STATE SENATOR or STATE REPRESENTATIVE); the lower one fourth section shall have the word KENTUCKY and the licensing period for which the plate is issued; the remaining middle section shall have the seal of the Commonwealth of Kentucky on the far left and the district number of the applicant in the center* [~~plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or representative district (i.e. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued~~].

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications along with the *appropriate* [~~twenty-five dollar ($25)~~] fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which *a* [~~the~~] special legislative plate is being sought. The cabinet shall send the legislative plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue *the* [~~said~~] legislative license plate and receive thirteen dollars fifty cents ($13.50) *for each vehicle registered*, of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of twelve dollars fifty cents ($12.50) *per vehicle registered*, two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate.

(4) Upon the sale or transfer of a vehicle bearing such special legislative license plate, the owner shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle can then be transferred as provided in KRS Chapter 186.

(5) When *a* [~~said~~] legislative plate has been presented to the clerk, he shall reissue *it* [~~same~~] for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned by the same person purchasing the legislative plate for the current period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) In the event *a* [~~the~~] legislative plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(7) Special legislative registration under this section shall expire on December 31 of the year purchased.

(8) The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

The Committee Substitute to **HB 238** is as follows:

HB 238. AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.174 is amended to read as follows:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and U-Drive-Its, may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25.00) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner must make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an owner obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application. *All personalized license plates issued pursuant to this section after December 31, 1988, shall have the same design as the license plates described by KRS 186.240(4).*

(3) The cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) (a) Upon the sale or transfer of such motor vehicle bearing such personalized plate, the owner shall remove same and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle of the same classification and category owned by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(5) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the owner may obtain a regular plate free.

(6) The secretary of the transportation cabinet may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 2. KRS 186.178 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25) *per plate,* owners of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the general assembly shall be issued *no more than two (2)* [~~an additional~~] five (5) year license *plates for use on no more than two (2) vehicles owned by the applicant, and the design of which, in lieu of the usual registration number, shall be as follows: the lower one-fourth (1/4) section shall indicate whether the applicant is a senator or representative (i.e. STATE SENATOR or STATE REPRESENTATIVE); the upper one-fourth (1/4) section shall have the word KENTUCKY; the remaining middle section shall have the seal of the Commonwealth of Kentucky on the far left and the district number of the applicant in the center. If a member of the general assembly is issued two (2) license plates under the provisions of this section, the second shall have a unique identifier following the district number* [~~plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or representative district (i.e. SENATE-38 or HOUSE-30), and in~~

~~place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued~~].

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications along with the *appropriate* [~~twenty-five dollar ($25)~~] fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which *a* [~~the~~] special legislative plate is being sought. The cabinet shall send the legislative plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue *the* [~~said~~] legislative license plate and receive thirteen dollars fifty cents ($13.50) *for each vehicle registered,* of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of *thirteen dollars and fifty cents ($13.50) per vehicle registered* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. *The* [~~Such~~] decal shall be affixed to the five (5) year registration plate.

(4) Upon the sale or transfer of a vehicle bearing such special legislative license plate, the owner shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle can then be transferred as provided in KRS Chapter 186.

(5) When *a* [~~said~~] legislative plate has been presented to the clerk, he shall reissue *it* [~~same~~] for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned by the same person purchasing the legislative plate for the current period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) *If a* [~~In the event the~~] legislative plate, within five (5) years of the date of its issue, deteriorates to the point *that* [~~where~~] the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(7) Special legislative registration under this section shall expire on December 31 of the year purchased.

(8) The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

HB 378, AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for

an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) *Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:*

(a) The automobile shall be provided for the full time exlusive use of the applicant; and

(b) The applicant shall obtain permission in writing on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(10)[~~(9)~~] Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(11)[~~(10)~~] Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(12)[~~(11)~~] Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(13)[~~(12)~~] The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(14)[~~(13)~~] The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(15)[~~(14)~~] (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

Section 2. KRS 186.041 is amended to read as follows:

(1) The transportation cabinet shall issue, free of charge, a certificate of registration and two (2) license plates or renewal decals to each disabled veteran who has been or shall be *given financial assistance towards the purchase of a motor vehicle* [~~issued a motor vehicle~~] by the veterans administration under the provisions of Title 38, section 1901, of the United States Code or any other public law that may be passed by the Congress of the United States, and who is a resident of Kentucky.

(2) The license plates *provided for* in subsection (1) of this section shall be manufactured to last at least five (5) years and shall be printed in three (3) colors, red, white and blue. One-half (1/2) of the license plate shall be in one (1) color, the other half (1/2) a second color and the figures and lettering the third color. Each *plate* [~~tag~~] shall contain the name of the state, the year, the registration number and the words "Handicapped Vet."

(3) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the license plate and return it and the certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a one dollar ($1.00) clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and upon payment of a *two dollar ($2.00)* [~~one dollar ($1.00)~~] clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) License plates provided under this section shall be issued only as long as the veteran is the owner of a motor vehicle provided by the veterans administration. Such license plates are not transferable to any person or persons not entitled to them under this section.

(5) No county, city, town or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the department under the provisions of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(6) Application for the special license plates shall be made to the cabinet in accordance with such regulations as the cabinet may have issued.

(7) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances

or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(8) Registration issued under this section shall expire on July 31.

(9) In the event a disabled veteran plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(10) The cabinet may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

Section 3. KRS 186.042 is amended to read as follows:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, the transportation cabinet shall issue the handicapped person special registration plates or renewal decals designating the vehicle licensed as *being owned by or leased by* [~~belonging to~~] a handicapped person. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear a handicapped insignia approved by the cabinet, reading from left to right and shall be followed by such numbers or letters as the cabinet finds expedient. The cabinet shall not issue registration plates so designated to any person other than a handicapped person. The cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plates or renewal decals.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2.00)* [~~one dollar ($1.00)~~] clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(3) When a motor vehicle bearing plates issued to a handicapped person as prescribed in this section is being operated by or for the benefit of the handicapped person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(4) *Any handicapped person seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of subsection (8) of Section 1 of this Act.*

(5) Registration under this section shall expire July 31.

(6)[~~(5)~~] The cabinet may make such rules and regulations as it deems necessary to further the purpose of this section.

Section 4. KRS 186.1701 is amended to read as follows:

(1) Any owner *or lessee* of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a) who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Viet Nam War, shall be issued a five (5) year license plate, for either one (1) automobile, or one (1) truck of one-half (1/2) or three-quarter (3/4) ton rating, upon application to the county clerk in the county of his residence and after payment of a twenty-five dollar ($25.00) state fee and a *two dollar ($2.00)* [~~one dollar ($1.00)~~] clerk's fee. Application shall be made on a form prescribed by the cabinet and shall be accompanied by written evidence from the United States veteran's administration or any other appropriate federal agency stating the period of time that the applicant was a prisoner of war.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors: red, white, and blue. Each tag shall contain the name of the state, the year, the registration number and the words

"Former P.O.W." Annually thereafter, upon application to the county clerk of the county of his residence, together with proof that he is a former prisoner of war, and without payment of the registration fee provided in subsection (1) of this section, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet. For services performed to renew such registration, the clerk shall receive a *two dollar ($2.00)* [~~one dollar ($1.00)~~] fee.

(3) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the prisoner of war license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2.00)* [~~one dollar ($1.00)~~] clerk's fee. When the prisoner of war plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee for use on any other vehicle owned *or leased* by the same person who purchased the prisoner of war plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) In the event a prisoner of war license plate is lost, stolen or mutilated, if the owner *or lessee* has not transferred a vehicle during the current license period, he may obtain a regular plate free of charge. In the event a prisoner of war license plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(5) *Any applicant seeking to obtain a license plate under this section, who has been provided a vehicle pursuant to an occupation shall conform to the requirements of subsection (8) of Section 1 of this Act.*

(6) License plates issued under this section shall expire on December 31.

Section 5. KRS 186.171 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25), owners *and lessees* of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the U.S. Congress shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of the applicant's senatorial or congressional district (i.e. U.S. SENATE-1 or U.S. REPRESENTATIVE-6), and in place of the county name, the word "CONGRESS" and the licensing period for which the plate is issued.

(2) Applications shall be filed with the county clerk of the county in which the congressman resides and the clerk shall forward the applications along with the twenty-five dollar ($25) fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special congressional plate is being sought. The cabinet shall send the congressional plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said congressional license plate and receive thirteen dollars fifty cents ($13.50), two dollars ($2) of which shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) which shall constitute the cabinet's fee. Annually thereafter upon application as provided above, and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate.

(3) Upon the sale or transfer of such motor vehicle bearing such congressional plate, the owner *or lessee* shall remove same and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.* The vehicle can then be transferred as provided in KRS Chapter 186.

(4) When said congressional plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and one dollar ($1) clerk's fee for use on any other vehicle owned *or leased* by the same person purchasing the congressional plate for the current license period.

(5) In the event a congressional plate, within five (5) years of the date of issue, deteriorates to the point where inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(6) *Any applicant seeking to obtain a license plate according to this section, for a vehicle provided pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(7) Registration under this section shall expire December 31.

(8)[~~(7)~~] The secretary of transportation may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 6. KRS 186.172 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any volunteer member of a volunteer fire department or fire protection district in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Fire Fighter," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as a volunteer fire fighter as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas, and the payment of a fee of twenty-five dollars ($25.00). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service as a volunteer fire fighter, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the volunteer fire fighter license plate originally issued to the applicant.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the volunteer fire fighter license plate and return it *and the certificate of title and registration* to the county clerk. *The county clerk* [~~who~~] shall *issue a regular license plate and certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the transportation cabinet* [~~reissue it~~] for use on any other vehicle of the same class and category owned *or leased* by the same applicant to whom the volunteer fire fighter license plate was originally issued.

(3) Upon termination of membership as a volunteer fire fighter, an applicant to whom a volunteer fire fighter license plate was issued under this section, shall, within thirty (30) days, return the volunteer fire fighter plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer fire fighter license plates, in annually issuing a current year renewal decal to be affixed to the volunteer fire fighter license plate, the county clerk shall receive from each applicant a fee of *two dollars ($2.00)* [~~one dollar ($1.00)~~]. A *one dollar ($1.00)* [~~like~~] fee shall be charged for the reissuance of such license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for which it was originally issued.

(5) *Any applicant seeking to obtain a license plate according to this section, for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(6) The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

Section 7. KRS 186.1721 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any member of a local disaster and emergency services organization or volunteer rescue squad in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Disaster and Emergency Services," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as furnished by the county judge/executive, mayor, or disaster and emergency services coordinator, and the payment of a fee of twenty-five dollars ($25). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the disaster and emergency services license plate originally issued to the applicant.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the disaster and emergency services license plate and return it *and the certificate of title and registration* to the county clerk. *The county clerk* [~~who~~] shall *issue a regular license plate and certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50)*

state fee and a two dollar ($2.00) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the transportation cabinet [~~reissue it~~] for use on any other vehicle of the same class and category owned *or leased* by the same applicant to whom a disaster and emergency services license plate was originally issued.

(3) Upon termination of membership as a member of the disaster and emergency services organization or volunteer rescue squad, an applicant to whom a disaster and emergency services license plate was issued under this section shall, within thirty (30) days, return said plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the disaster and emergency services license plates and in annually issuing a current year renewal decal to be affixed to the disaster and emergency services license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). *A one dollar ($1.00)* [~~The same~~] fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(6) Registration under this section shall expire December 31 of each year.

(7)[~~(6)~~] The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

Section 8. KRS 186.173 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the Kentucky national guard or any retired member of the national guard with twenty-five (25) years of service shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the national guard. The guardsman or retired guardsman may purchase only one (1) such registration annually and it must be for a vehicle [~~in~~] which he *owns or leases* [~~has total or partial ownership~~]. Each application shall be accompanied by proof of current or previous service in the Kentucky national guard, and the payment of a one-time fee of twenty-five dollars ($25.00). License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service or twenty-five (25) years of previous service in the Kentucky national guard, and without payment of a registration fee, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet.

(2) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the national guard license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and *two dollar ($2.00)* [~~one dollar ($1.00)~~] clerk's fee.

(b) Upon application of another vehicle which is authorized to bear such registration under subsection (1) of this section, owned *or leased* by the same applicant to whom the national guard license plate was originally issued the county clerk shall issue another such license plate. There shall be no state fee for this plate and one dollar ($1.00) clerk's fee.

(3) Upon termination of membership in the Kentucky national guard, except for those retired persons who remain eligible through the provisions of subsection (1) of this section, an applicant to whom a national guard license plate was issued under this section shall, within thirty (30) days, return the national guard plate to the county clerk of the county of his residence.

(4) For the services performed in issuing national guard license plates, and in annually issuing a renewal decal to be affixed to the national guard license plate, the county clerk shall receive from each applicant a fee of *two dollars ($2.00)* [~~one dollar ($1.00)~~]. A *one dollar ($1.00)* [~~like~~] fee shall be charged for the issuance of another replacement license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for

which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(6) The secretary of the transportation cabinet shall in accordance with the provisions of KRS Chapter 13 make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Section 9. KRS 186.1731 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the civil air patrol shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. The license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Civil Air Patrol," a registration number and an appropriate logo to be determined by the transportation cabinet. The civil air patrol member may purchase only one (1) such registration plate annually and it must be for a vehicle in which he *is the owner or lessee* [~~has total or partial ownership~~]. Each application shall be accompanied by proof of current service by presentation of an identification card issued by the national office of the civil air patrol and the payment of a fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service and with payment of an eleven dollar and fifty cent ($11.50) renewal fee, the clerk shall issue a renewal decal, as directed by the transportation cabinet.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the civil air patrol license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.

(3) Upon termination of membership in the civil air patrol, an applicant to whom a civil air patrol license plate was issued under this section shall, within thirty (30) days, return the civil air patrol plate to the county clerk of the county of his residence.

(4) For the services performed in issuing civil air patrol license plates and in annually issuing a renewal decal to be affixed to the civil air patrol license plate, the county clerk shall receive from each applicant a fee of two dollars ($2.00). A *one dollar ($1.00)* [~~like~~] fee shall be charged for the issuance of another replacement license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(6) The secretary of the transportation cabinet shall in accordance with the provisions of KRS Chapter 13A make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Section 10. KRS 186.174 is amended to read as follows:

(1) Any owner *or lessee* of a motor vehicle *that is* required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and *rented vehicles* [~~U-Drive-Its~~], may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25.00) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, *a* cashier's check or *a* money order. The application and the twenty-five dollar ($25.00) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner *or lessee shall* [~~must~~] make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an *applicant* [~~owner~~] obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(3) The cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of such motor vehicle bearing such personalized plate, the owner *or lessee* shall remove same and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.* This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle of the same classification and category owned *or leased* by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(6) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the *applicant* [~~owner~~] may obtain a regular plate free.

(7)[~~(6)~~] The secretary of the transportation cabinet may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 11. KRS 186.177 is amended to read as follows:

(1) Owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a), who are residents of this state and who hold an unrevoked and unexpired official amateur radio station and operator's license issued by the federal communications commission, upon application accompanied by proof of ownership of such amateur radio licenses, and upon complying with all other laws of this state relating to the registration and licensing of motor vehicles, and upon the payment of an additional license fee of twenty-five dollars ($25.00), shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual number, the official amateur radio call letters of the station of such applicant as assigned by the federal communications commission, and the year for which the plate is issued. This application and a twenty-five dollar ($25) fee must be received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of certified check, cashier's check, or a money order. The owner *or lessee shall* [~~must~~] make a new application each year he desires to obtain an amateur radio license or renewal decal. The cabinet shall send the amateur radio plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said amateur radio license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate. Upon the sale, [~~or~~] transfer *or termination of lease* of such vehicle bearing such special plate the owner *or lessee* shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.* When said amateur radio plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the amateur

radio plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort. This vehicle can then be transferred as provided in KRS Chapter 186.

(2) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(3) In the event the amateur radio plate, within five (5) years from the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the *applicant* [~~owner~~] may obtain a replacement plate free of charge.

(4)[~~(3)~~] Amateur radio registration under this section expires December 31 each year.

(5)[~~(4)~~] The secretary of the transportation cabinet may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

Section 12. KRS 186.178 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25.00), owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the general assembly shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or representative district (i.e. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued.

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications along with the twenty-five dollar ($25) fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special legislative plate is being sought. The cabinet shall send the legislative plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said legislative license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate.

(4) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle bearing such special legislative license plate, the owner *or lessee* shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.* This vehicle can then be transferred as provided in KRS Chapter 186.

(5) When said legislative plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the legislative plate for the current period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(7) In the event the legislative plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(8)[~~(7)~~] Special legislative registration under this section shall expire on December 31 of the year purchased.

(9)[~~(8)~~] The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 13. KRS 186.179 is amended to read as follows:

(1) Upon application for each licensing period, owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected or appointed justices or judges of the Court of Justice shall be issued two (2) additional five (5) year license plates for an additional license fee of twenty-five dollars ($25.00).

(2) On license plates for justices of the Supreme Court, other than the chief justice, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the initials "JSC" followed by the Supreme Court district from which they serve, and in lieu of the county name, the words "SUPREME COURT." On the plates issued to the chief justice shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "CHIEF JUSTICE."

(3) On the plates for judges of the Court of Appeals, other than the chief judge, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the appellate district from which they serve, followed by the initials "CA", followed by the division number which they serve, and in lieu of the county name the words "COURT OF APPEALS." On plates issued to the chief judge shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "COURT OF APPEALS."

(4) On the plates for circuit judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the judicial circuit which they serve followed by the initial "C", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(5) On the plates for district judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the number of the judicial district which they serve followed by the initial "D", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(6) Any person who has been sworn as a justice or judge of the Court of Justice, or who has received his certificate of election to the Court of Justice and whose election is not being challenged, may apply for the special judicial license plates authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(7) Applications shall be filed with the county clerk of the county in which the judge resides and the clerk shall forward the applications along with the twenty-five dollar ($25) initial registration fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special judicial plates are being sought. The cabinet shall send the judicial plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said judicial license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. The judge shall attach the special judicial plates to the vehicle so licensed, one (1) license plate attached to the front of the vehicle, and one (1) license plate attached to the rear of the vehicle. Annually thereafter upon application as provided above and without payment of the initial registration fee to the cabinet, the clerk shall issue a decal or decals, to renew the vehicle's registration. Such decal or decals shall be affixed to the special judicial plate or plates as prescribed by the cabinet.

(8) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle bearing such special judicial license plates, the owner *or lessee* shall remove same and return it and certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.* This vehicle can then be transferred as provided in KRS Chapter 186.

(9) When said judicial plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the judicial plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(10) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(11) In the event the special judicial plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(12)[~~(11)~~] Registration under this section shall expire on December 31.

(13)[~~(12)~~] The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 14. KRS 186.182 is amended to read as follows:

(1) The transportation cabinet shall issue, free of charge, a certificate of registration and one (1) license plate to each recipient of the congressional medal of honor who is a resident of Kentucky.

(2) The license plate in subsection (1) of this section shall be printed in two (2) colors, blue and white, and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each *plate* [~~tag~~] shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(3) License plates provided under this section shall be issued only as long as the medal of honor recipient is the owner *or lessee* of the motor vehicle. Such license plates are not transferable to any person not entitled to them under this section.

(4) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(5) No county, city or any other political subdivision of this state shall require any license fee from any medal of honor recipient for the privilege of operating a motor vehicle upon the streets or alleys of any political subdivision, any other provisions of laws to the contrary notwithstanding.

(6) Application for the special license plates shall be made to the cabinet in accordance with such regulations as the department may have issued.

(7) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in subsection (8) of Section 1 of this Act.*

(8) License plates issued under this section shall expire on December 31.

(9)[~~(8)~~] The cabinet may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

The Committee Substitute to **HB 378** is as follows:

HB 378, AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5), and for each sidecar attachment, three dollars ($3).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall

pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

(15) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:

(a) The automobile shall be provided for the full time exclusive use of the applicant; and

(b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

Section 2. KRS 186.041 is amended to read as follows:

(1) The transportation cabinet shall issue, free of charge, a certificate of registration and two (2) license plates or renewal decals to each disabled veteran who has been or shall be *given financial assistance towards the purchase of a motor vehicle* [~~issued a motor vehicle~~] by the veterans administration under the provisions of Title 38, section 1901, of the United States Code or any other public law that may be passed by the Congress

of the United States, and who is a resident of Kentucky.

(2) The license plates *provided for* in subsection (1) of this section shall be manufactured to last at least five (5) years and shall be printed in three (3) colors, red, white and blue. One-half (1/2) of the license plate shall be in one (1) color, the other half (1/2) a second color and the figures and lettering the third color. Each *plate* [~~tag~~] shall contain the name of the state, the year, the registration number and the words "Handicapped Vet."

(3) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the license plate and return it and the certificate of [~~title and~~] registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) License plates provided under this section shall be issued only as long as the veteran is the owner of a motor vehicle provided by the veterans administration. Such license plates are not transferable to any person or persons not entitled to them under this section.

(5) No county, city, town or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the department under the provisions of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(6) Application for the special license plates shall be made to the cabinet in accordance with such regulations as the cabinet may have issued.

(7) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(8) Registration issued under this section shall expire on July 31.

(9) In the event a disabled veteran plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(10) The cabinet may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

Section 3. KRS 186.042 is amended to read as follows:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, the transportation cabinet shall issue the handicapped person special registration plates or renewal decals designating the vehicle licensed as *being owned by or leased by* [~~belonging to~~] a handicapped person. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear a handicapped insignia approved by the cabinet, reading from left to right and shall be followed by such numbers or letters as the cabinet finds expedient. The cabinet shall not issue registration plates so designated to any person other than a handicapped person. The cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plates or renewal decals.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's

fee. When the special plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(3) When a motor vehicle bearing plates issued to a handicapped person as prescribed in this section is being operated by or for the benefit of the handicapped person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(4) *Any handicapped person seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(15).*

(5) Registration under this section shall expire July 31.

(6)[~~(5)~~] The cabinet may make such rules and regulations as it deems necessary to further the purpose of this section.

Section 4. KRS 186.1701 is amended to read as follows:

(1) Any owner *or lessee* of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a) who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Viet Nam War, shall be issued a five (5) year license plate, for either one (1) automobile, or one (1) truck of one-half (1/2) or three-quarter (3/4) ton rating, upon application to the county clerk in the county of his residence and after payment of a twenty-five dollar ($25) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee. Application shall be made on a form prescribed by the cabinet and shall be accompanied by written evidence from the United States veteran's administration or any other appropriate federal agency stating the period of time that the applicant was a prisoner of war.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors: red, white, and blue. Each tag shall contain the name of the state, the year, the registration number and the words "Former P.O.W." Annually thereafter, upon application to the county clerk of the county of his residence, together with proof that he is a former prisoner of war, and without payment of the registration fee provided in subsection (1) of this section, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet. For services performed to renew such registration, the clerk shall receive a *two dollar ($2)* [~~one dollar ($1)~~] fee.

(3) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the prisoner of war license plate and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee. When the prisoner of war plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1) clerk's fee for use on any other vehicle owned *or leased* by the same person who purchased the prisoner of war plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) In the event a prisoner of war license plate is lost, stolen or mutilated, if the owner *or lessee* has not transferred a vehicle during the current license period, he may obtain a regular plate free of charge. In the event a prisoner of war license plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(5) *Any applicant seeking to obtain a license plate under this section, who has been provided a vehicle pursuant to an occupation shall conform to the requirements of KRS 186.050(15).*

(6) License plates issued under this section shall expire on December 31.

Section 5. KRS 186.171 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25), owners *and lessees* of motor vehicles required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the U.S. Congress shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of the applicant's senatorial or congressional district (i.e. U.S. SENATE-1 or U.S. REPRESENTATIVE-6), and in place of the county name, the word "CONGRESS" and the licensing period for which the plate is issued.

(2) Applications shall be filed with the county clerk of the county in which the congressman resides and the clerk shall forward the applications along with the twenty-five dollar ($25) fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special congressional plate is being sought. The cabinet shall send the congressional plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said congressional license plate and receive thirteen dollars fifty cents ($13.50), two dollars ($2) of which shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) which shall constitute the cabinet's fee. Annually thereafter upon application as provided above, and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate.

(3) Upon the sale or transfer of such motor vehicle bearing such congressional plate, the owner *or lessee* shall remove same and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee*. The vehicle can then be transferred as provided in KRS Chapter 186.

(4) When said congressional plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and one dollar ($1) clerk's fee for use on any other vehicle owned *or leased* by the same person purchasing the congressional plate for the current license period.

(5) In the event a congressional plate, within five (5) years of the date of issue, deteriorates to the point where inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(6) Upon termination of membership from the United States senate or house of representatives, an applicant to whom a plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.

(7) Any applicant seeking to obtain a license plate according to this section, for a vehicle provided pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).

(8) Registration under this section shall expire December 31.

(9)[~~(7)~~] The secretary of transportation may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 6. KRS 186.172 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any volunteer member of a volunteer fire department or fire protection district in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Fire Fighter," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as a volunteer fire fighter as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas, and the payment of a fee of twenty-five dollars ($25). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service as a volunteer fire fighter, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the volunteer fire fighter license plate originally issued to the applicant.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the volunteer fire fighter license plate and return it *and the certificate of registration* to the county clerk. *The county clerk* [~~who~~] shall *issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the transportation cabinet* [~~reissue it~~] for use on any other vehicle of the same class and category owned *or leased* by the same applicant to whom the volunteer fire fighter license plate was originally issued.

(3) Upon termination of membership as a volunteer fire fighter, an applicant to whom a volunteer fire fighter license plate was issued under this section, shall, within thirty (30) days, return the volunteer fire fighter plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer fire fighter license plates, in annually issuing a current year renewal decal to be affixed to the volunteer fire fighter license plate, the county clerk shall receive from each applicant a fee of *two dollars ($2)* [~~one dollar ($1)~~]. A *one dollar ($1)* [~~like~~] fee shall be charged for the reissuance of such license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for which it was originally issued.

(5) *Any applicant seeking to obtain a license plate according to this section, for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(6) The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

Section 7. KRS 186.1721 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any member of a local disaster and emergency services organization or volunteer rescue squad in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Disaster and Emergency Services," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as furnished by the county judge/executive, mayor, or disaster and emergency services coordinator, and the payment of a fee of twenty-five dollars ($25). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the disaster and emergency services license plate originally issued to the applicant.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the disaster and emergency services license plate and return it *and the certificate of registration* to the county clerk. *The county clerk* [~~who~~] shall *issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the transportation cabinet* [~~reissue it~~] for use on any other vehicle of the same class and category owned *or leased* by the same applicant to whom a disaster and emergency services license plate was originally issued.

(3) Upon termination of membership as a member of the disaster and emergency services organization or volunteer rescue squad, an applicant to whom a disaster and emergency services license plate was issued under this section shall, within thirty (30) days, return said plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the disaster and emergency services license plates and in annually issuing a current year renewal decal to be affixed to the disaster and emergency services license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). *A one dollar ($1)* [~~The same~~] fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(6) Registration under this section shall expire December 31 of each year.

(7)[~~(6)~~] The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

Section 8. KRS 186.173 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the Kentucky national guard or any retired member of the national guard with twenty-five (25) years of service shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the national guard. The guardsman or retired guardsman may purchase only one (1) such registration annually and it must be for a vehicle [~~in~~] which he *owns or leases* [~~has total or partial ownership~~]. Each application shall be accompanied by proof of current or previous service in the Kentucky national guard, and the payment of a one-time fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service or twenty-five (25) years of previous service in the Kentucky national guard, and without payment of a registration fee, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet.

(2) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the national guard license plate and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate, and certificate of [~~title and~~] registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee.

(b) Upon application of another vehicle which is authorized to bear such registration under subsection (1) of this section, owned *or leased* by the same applicant to whom the national guard license plate was originally issued the county clerk shall issue another such license plate. There shall be no state fee for this plate and one dollar ($1) clerk's fee.

(3) Upon termination of membership in the Kentucky national guard, except for those retired persons who remain eligible through the provisions of subsection (1) of this section, an applicant to whom a national guard license plate was issued under this section shall, within thirty (30) days, return the national guard plate to the county clerk of the county of his residence.

(4) For the services performed in issuing national guard license plates, and in annually issuing a renewal decal to be affixed to the national guard license plate, the county clerk shall receive from each applicant a fee of *two dollars ($2)* [~~one dollar ($1)~~]. A *one dollar ($1)* [~~like~~] fee shall be charged for the issuance of another replacement license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(6) The secretary of the transportation cabinet shall in accordance with the provisions of KRS Chapter 13 make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Section 9. KRS 186.1731 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the civil air patrol shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. The license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Civil Air Patrol," a registration number and an appropriate logo to be determined by the transportation cabinet. The civil air patrol member may purchase only one (1) such registration plate annually and it must be for a vehicle in which he *is the owner or lessee* [~~has total or partial ownership~~]. Each application shall be accompanied by proof of current service by presentation of an identification card issued by the national office of the civil air patrol and the payment of a fee of twenty-five dollars ($25). License plates issued under this section shall

expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service and with payment of an eleven dollar and fifty cent ($11.50) renewal fee, the clerk shall issue a renewal decal, as directed by the transportation cabinet.

(2) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized by subsection (1) of this section, the owner *or lessee* shall remove the civil air patrol license plate and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate, and certificate of [~~title and~~] registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.

(3) Upon termination of membership in the civil air patrol, an applicant to whom a civil air patrol license plate was issued under this section shall, within thirty (30) days, return the civil air patrol plate to the county clerk of the county of his residence.

(4) For the services performed in issuing civil air patrol license plates and in annually issuing a renewal decal to be affixed to the civil air patrol license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). A *one dollar ($1)* [~~like~~] fee shall be charged for the issuance of another replacement license plate after the sale, [~~or~~] transfer *or termination of lease* of the vehicle for which it was originally issued.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(6) The secretary of the transportation cabinet shall in accordance with the provisions of KRS Chapter 13A make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Section 10. KRS 186.174 is amended to read as follows:

(1) Any owner *or lessee* of a motor vehicle *that is* required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and *rental motor vehicles* [~~U-Drive-Its~~], may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, *a* cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner *or lessee shall* [~~must~~] make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an *applicant* [~~owner~~] obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(3) The cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) (a) Upon the sale, [~~or~~] transfer *or termination of lease* of such motor vehicle bearing such personalized plate, the owner *or lessee* shall remove same and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.* This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle of the same classification and category owned *or leased* by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(5) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(6) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the *applicant* [~~owner~~] may obtain a regular plate free.

(7)[~~(6)~~] The secretary of the transportation cabinet may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 11. KRS 186.177 is amended to read as follows:

(1) Owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a), who are residents of this state and who hold an unrevoked and unexpired official amateur radio station and operator's license issued by the federal communications commission, upon application accompanied by proof of ownership of such amateur radio licenses, and upon complying with all other laws of this state relating to the registration and licensing of motor vehicles, and upon the payment of an additional license fee of twenty-five dollars ($25), shall be issued an additional five (5) year license plate upon which shall be inscribed, in lieu of the usual number, the official amateur radio call letters of the station of such applicant as assigned by the federal communications commission, and the year for which the plate is issued. This application and a twenty-five dollar ($25) fee must be received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of certified check, cashier's check, or a money order. The owner *or lessee shall* [~~must~~] make a new application each year he desires to obtain an amateur radio license or renewal decal. The cabinet shall send the amateur radio plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said amateur radio license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate. Upon the sale, [~~or~~] transfer *or termination of lease* of such vehicle bearing such special plate the owner *or lessee* shall remove same and return it and certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.* When said amateur radio plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the amateur radio plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort. This vehicle can then be transferred as provided in KRS Chapter 186.

(2) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(3) In the event the amateur radio plate, within five (5) years from the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the *applicant* [~~owner~~] may obtain a replacement plate free of charge.

(4)[~~(3)~~] Amateur radio registration under this section expires December 31 each year.

(5)[~~(4)~~] The secretary of the transportation cabinet may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

Section 12. KRS 186.178 is amended to read as follows:

(1) Upon application and payment of an additional license fee of twenty-five dollars ($25), owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected members of the general assembly shall be issued an additional five (5) year license

plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or representative district (i.e. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued.

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles. *Provisions of this subsection shall apply only if the current office holder does not have a special license plate.*

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications along with the twenty-five dollar ($25) fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special legislative plate is being sought. The cabinet shall send the legislative plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said legislative license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter upon application as provided above and after payment of *thirteen dollars fifty cents ($13.50)* [~~twelve dollars fifty cents ($12.50)~~], two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate.

(4) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle bearing such special legislative license plate, the owner *or lessee* shall remove same and return it and certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.* This vehicle can then be transferred as provided in KRS Chapter 186.

(5) When said legislative plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the legislative plate for the current period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) *Upon termination of membership for the general assembly of the Commonwealth of Kentucky, an applicant to whom a plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.*

(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).

(8) In the event the legislative plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(9)[~~(7)~~] Special legislative registration under this section shall expire on December 31 of the year purchased.

(10)[~~(8)~~] The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 13. KRS 186.179 is amended to read as follows:

(1) Upon application for each licensing period, owners *and lessees* of motor vehicles *that are* required to be registered under the provisions of KRS 186.050(1) or (3)(a) who are duly elected or appointed justices or judges of the Court of Justice shall be issued two (2) additional five (5) year license plates for an additional license fee of twenty-five dollars ($25).

(2) On license plates for justices of the Supreme Court, other than the chief justice, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the initials "JSC" followed by the Supreme Court district from which they serve, and in lieu of

the county name, the words "SUPREME COURT." On the plates issued to the chief justice shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "CHIEF JUSTICE."

(3) On the plates for judges of the Court of Appeals, other than the chief judge, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the appellate district from which they serve, followed by the initials "CA", followed by the division number which they serve, and in lieu of the county name the words "COURT OF APPEALS." On plates issued to the chief judge shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "COURT OF APPEALS."

(4) On the plates for circuit judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the judicial circuit which they serve followed by the initial "C", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(5) On the plates for district judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the number of the judicial district which they serve followed by the initial "D", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(6) Any person who has been sworn as a justice or judge of the Court of Justice, or who has received his certificate of election to the Court of Justice and whose election is not being challenged, may apply for the special judicial license plates authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles. *Provisions of this subsection shall apply only if the incumbent judge does not have a special license plate.*

(7) Applications shall be filed with the county clerk of the county in which the judge resides and the clerk shall forward the applications along with the twenty-five dollar ($25) initial registration fee promptly to the transportation cabinet, noting thereon the current registration number of the vehicle for which the special judicial plates are being sought. The cabinet shall send the judicial plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said judicial license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee. The judge shall attach the special judicial plates to the vehicle so licensed, one (1) license plate attached to the front of the vehicle, and one (1) license plate attached to the rear of the vehicle. Annually thereafter upon application as provided above and without payment of the initial registration fee to the cabinet, the clerk shall issue a decal or decals, to renew the vehicle's registration. Such decal or decals shall be affixed to the special judicial plate or plates as prescribed by the cabinet.

(8) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle bearing such special judicial license plates, the owner *or lessee* shall remove same and return it and certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of [~~title and~~] registration *upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee.* This vehicle can then be transferred as provided in KRS Chapter 186.

(9) When said judicial plate has been presented to the clerk, he shall reissue same for a one dollar ($1) clerk's fee and free from payment to the transportation cabinet for use on any other vehicle owned *or leased* by the same person purchasing the judicial plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(10) *Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).*

(11) In the event the special judicial plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner *or lessee* may obtain a replacement plate free of charge.

(12)[~~(11)~~] Registration under this section shall expire on December 31.

(13)[~~(12)~~] The secretary of the transportation cabinet shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 14. KRS 186.182 is amended to read as follows:

(1) *Upon payment of a two dollar ($2) clerk's fee,* the transportation cabinet shall issue, *with no further* [~~free of~~] charge, a certificate of registration and one (1) license plate to each recipient of the congressional medal of honor who is a resident of Kentucky.

(2) The license plate in subsection (1) of this section shall be printed in two (2) colors, blue and white, and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each *plate* [~~tag~~] shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(3) License plates provided under this section shall be issued only as long as the medal of honor recipient is the owner *or lessee* of the motor vehicle. Such license plates are not transferable to any person not entitled to them under this section.

(4) Upon the sale, [~~or~~] transfer *or termination of lease* of a vehicle licensed as authorized under this section, the owner *or lessee* shall remove the license plate and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a *two dollar ($2)* [~~one dollar ($1)~~] clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned *or leased* by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(5) No county, city or any other political subdivision of this state shall require any license fee from any medal of honor recipient for the privilege of operating a motor vehicle upon the streets or alleys of any political subdivision, any other provisions of laws to the contrary notwithstanding.

(6) Application for the special license plates shall be made to the cabinet in accordance with such regulations as the department may have issued.

(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(15).

(8) License plates issued under this section shall expire on December 31.

(9)[~~(8)~~] The cabinet may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

HB 627, AN ACT relating to penalties for motor vehicle offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court

costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

(25) A child over sixteen (16) years of age charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Suspension of driving privileges for a period not to exceed forty-five (45) days; and

(b) Attendance at a driver improvement clinic. If the child completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

The Committee Amendment No. 1 to **HB 627** is as follows:

Amend printed copy of **HB 627** on page 7, line 18, after the word "*A*" by deleting the following: "*child over sixteen (16) years of age*" and insert in lieu thereof "*licensed driver under the age of eighteen (18)*";

On page 7, by deleting lines 24 and 25 in their entirety and inserting in lieu thereof "*(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and*"

On page 7, line 26, after the word "*clinic*" by inserting the following: "*established pursuant to KRS 186.574*".

On page 8, line 1, before the word "*completes*" by deleting the word "*child*" and inserting the word "*person*" in lieu thereof.

HB 689. AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license, or a renewal of a license for the operation of a motor vehicle, motorcycle, moped or *an* [~~a non-driver~~] identification card shall apply in person to the circuit court clerk of the county in which the applicant resides and shall make application upon a form furnished by the transportation cabinet. The application form shall contain and shall require the full and legal name and signature, date of birth, social security number, sex, present resident address of the applicant and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The transportation cabinet shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. The license shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. *The* [~~Such~~] temporary license shall be valid in lieu of the permanent license during the certification period and *shall* [~~must~~] be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo [~~non-driver~~] identification card may apply in person to the circuit clerk in the county in which he resides. When requested by the clerk, a person *shall* [~~must~~] bring a birth certificate and social security card. The social security card *shall* [~~must~~] contain his signature. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form. [~~The clerk shall not issue a color photo non-driver identification card to any individual with a valid operator's license.~~] The *identification card* [~~license~~] shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without

photo and signature."

(7) The cabinet shall provide on each license to operate motor vehicles or motorcycles issued a space for the licensed driver's blood type; a space for a medical insignia to be stamped with the proper insignia by the circuit court clerk, if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and a statement whereby the owner of *the* [~~such~~] license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195. In addition, if the motor vehicle operator denotes a physical ailment or drug allergy on the license, *he* [~~they~~] may apply for and shall receive, for a fee of one dollar ($1), a medical insignia decal which may be affixed to the lower left side of the front windshield of a motor vehicle. The applicant shall remit a fee of one dollar ($1) to the circuit clerk, at which time the clerk shall issue the insignia.

Section 2. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's licenses and permits shall be as follows:

(a) The fee for any two (2) year original or renewal license, including motorcycle operator's license, shall be four dollars ($4), except that the fee for a combination motor vehicle-motorcycle operator's license shall be seven dollars ($7). The fee for any four (4) year original or renewal license, including motorcycle operator's license, shall be eight dollars ($8), except that the fee for a four (4) year combination motor vehicle-motorcycle operator's license shall be fourteen dollars ($14);

(b) The fee for any instruction permit shall be one dollar ($1) plus one dollar ($1) for preparing and acknowledging such application;

(c) The fee for a duplicate license shall be two dollars ($2);

(d) The fee for *an* [~~a non-driver's~~] identification card shall be four dollars ($4). The fee for a duplicate [~~non-driver~~] identification card shall be two dollars ($2); and

(e) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date on which said applicant attains the age of twenty-one (21). The fee for *the* [~~such a~~] license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) The circuit clerk shall deposit in the state treasury to the credit of the general fund except as provided in paragraph (f) of this subsection fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3);

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each [~~non-driver's~~] identification card; and

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the transportation cabinet exclusively for the purpose of issuing a photo license.

(3) The remainder of all fees, and other moneys collected by the circuit court clerk shall be forwarded to the state.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

HB 715, AN ACT relating to handicapped parking permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.456 is amended to read as follows:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, or any person with a severe respiratory ailment, the county clerk in the county of such person's residence shall issue the handicapped person a special parking permit. *In addition, any agency or organization which transports handicapped persons as a part of the service provided by said agency or organization shall receive a special parking permit upon application to the county clerk for each vehicle used in the transportation of handicapped persons.* The special parking permit issued shall bear the universal handicapped symbol and such permit shall contain the handicapped person's name, the special parking permit number and such other information as the transportation cabinet may by regulation require.

(2) The annual fee payable to the county clerk for a special parking permit shall be two dollars ($2.00) *for each permit* and such permit shall expire on June 30. The application shall be made on a form prepared by the transportation cabinet. Permits shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and permits issued.

(3) For every person seeking a special handicapped parking permit, proof of such handicap shall be required by:

(a) Evidence that the individual has a license plate for a disabled veteran as provided by KRS 186.041 or 186.042;

(b) The county clerk issuing the permit ascertaining that the applicant is obviously handicapped; or

(c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration or perceptiveness is significantly reduced by a permanent or temporary disability to that person's arms, legs, lungs or eyes.

(4) For every agency or organization seeking a special handicapped parking permit application for said permit shall include:

(a) Name of the agency or organization requesting use of a special handicapped parking permit;

(b) Number of vehicles being used in the transportation of handicapped persons; and

(c) A statement from the director of the agency or organization verifying the need for such parking permit.

(5) No unauthorized person shall knowingly possess a special parking permit for the handicapped.

(6)[~~(5)~~] False application for a special parking permit shall constitute a violation of KRS 523.100.

(7)[~~(6)~~] When a motor vehicle which is being operated by or for the benefit of the handicapped person is displaying an auto registration plate as provided in KRS 186.042, an out-of-state handicapped registration plate, a handicapped parking permit issued by any veterans' administration hospital or a special parking permit issued to a handicapped person as prescribed in this section, the motor vehicle may be parked in a designated handicapped parking place. When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a designated handicapped parking area in a motor vehicle

not displaying either a handicapped auto registration plate as provided in KRS 186.042 or an out of state handicapped registration plate on the rear of the vehicle unless he displays on the rear view mirror of his motor vehicle a special parking permit issued to the handicapped. No person shall park a vehicle displaying a special parking permit in a designated handicapped parking area when such vehicle is not being used for the benefit of a handicapped person.

(8)[~~(7)~~] No unauthorized person shall knowingly possess a transferable decal for the handicapped.

(9)[~~(8)~~] No person shall make, issue, possess, or knowingly use any imitation or counterfeit of a transferable decal for the handicapped.

HJR 46. A JOINT RESOLUTION authorizing and directing the Secretary of the Transportation Cabinet to name the bridge being built over Laurel Lake in memory of Mr. Glen Cary, former Chief District Engineer of District 11.

WHEREAS, on March 28, 1987, Mr. Glen Cary, passed away while serving as Chief District Engineer of District 11, Bell, Clay, Harlan, Jackson, Knox, Laurel, Leslie, and Whitley Counties, after having served thirty-seven years with the Highway Department; and

WHEREAS, Mr. Cary served the citizens of the 11th Highway District for eight years as District Engineer and for three years as Chief District Engineer; and

WHEREAS, during Mr. Cary's tenure, numerous projects were completed in the 11th Highway District, including the Daniel Boone Parkway, Interstate 75, the four laning of a section of U.S. 25E, the completion of U.S. 119 and extension of KY 80 from U.S. 25 to the Pulaski County line; and

WHEREAS, Mr. Cary's contributions to an improved highway system have created a positive effect for the entire region, he is deserving of appropriate recognition for his lifetime of service to the Kentucky Department of Highways;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Transportation Cabinet designate the bridge currently being constructed over Laurel Lake onLaurel Lake Access Road as the "Glen Cary Memorial Bridge".

Section 2. That copies of this resolution be sent to the Governor, the Secretary of the Transportation Cabinet and the Chief District Engineer of the 11th District.

SB 12. AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) [~~Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.~~

~~(4)~~] (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4)[~~(5)~~] (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5)[~~(6)~~] Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(6)[~~(7)~~] Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7)[~~(8)~~] Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8)[~~(9)~~] Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9)[~~(10)~~] Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10)[~~(11)~~] Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(11)[~~(12)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12)[~~(13)~~] The fines imposed by paragraph (a) of subsection *(3)* [~~(4)~~] and subsections *(6) and (7)* [~~(7) and (8)~~] of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13)[~~(14)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14)[~~(15)~~] Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15)[~~(16)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(17)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(18)[~~(19)~~] Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(19)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(20)[~~(21)~~] A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(21)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(22)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(23)[~~(24)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

Section 2. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110,

189.120, 189.130, 189.140, 189.150, 189.160, [~~189.170,~~] 189.190, 189.205, 189.231, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 3. KRS 189.170, Trucks hauling stock to display owner's name, is repealed.

SB 13, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.655 is amended to read as follows:

(1) Before any certificate or permit will be issued or renewed, the applicant or holder of the certificate or permit must file or have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. The bond or policy shall have attached thereto the state insurance indorsement. All bonds or policies required herein must be issued in the name of the holder of the certificate or permit. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The bond or policy required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants or employes of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) Effective January 1, 1957, the types and minimum amounts of insurance to be carried on each vehicle are as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS, INCLUDING U-DRIVE-ITS

Capacity	Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
7 persons or less	$10,000.00	$20,000.00	$5,000.00
8 to 16 inclusive	10,000.00	30,000.00	5,000.00
17 to 25 inclusive	10,000.00	40,000.00	5,000.00
26 or more	10,000.00	50,000.00	5,000.00

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY, INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

Gross Weight	Death of Or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
18,000 lbs. or less	$ 10,000.00	$ 20,000.00	$ 5,000.00
More than 18,000 lbs.	100,000.00	300,000.00	50,000.00

(5) Any *person, firm or corporation operating or causing to be operated* [~~owner using~~] any vehicle for the transportation of petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds shall have the following types and minimum amount of insurance carried on each vehicle:

Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
$100,000.00	$300,000.00	$50,000.00

(6) Any *person, firm or corporation operating or causing to be operated* [~~owner using~~] any vehicle for the transportation of hazardous material as defined in KRS 174.405, except petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds, shall have the following types and minimum amount of insurance carried on each vehicle:

Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
$1,000,000.00	$1,000,000.00	$1,000,000.00

(7) Before any Kentucky intrastate certificate, exclusively authorizing the transportation of property, except an irregular route common carrier certificate exclusively authorizing the transportation of Kentucky exempted commodities, shall be issued or renewed, the applicant or holder of the certificate must file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service, (a) for loss of or damage to property carried on any one motor vehicle in the amount of five thousand dollars ($5,000); (b) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place in the amount of ten thousand dollars ($10,000). Said policy or bond shall have attached thereto the Kentucky cargo policy indorsement and must be issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(8) The department may by regulation require motor carriers for hire operating exclusively interstate commerce to file proof of cargo insurance coverage in such form and in such amounts as the commissioner deems advisable.

(9) No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract, provided, however, that a prior cancellation may be allowed in cases where one policy, bond or contract is substituted for another policy, bond or contract where such substituted policy, bond or contract is of force and effect at a point in time prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract for which such additional policy, bond or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond or contract or the cancellation of any policy, bond or contract by the department, unless under the circumstances hereinbefore set forth, shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation.

(10) Upon the cancellation of any bond or insurance policy required by this section, all operating rights granted by the certificate or permit for which said bond or policy was filed, shall immediately cease, and the department is empowered to immediately require the cessation of all operations conducted under authority of said certificate or permit, and to require the surrender of all certificates, permits, licenses and other evidence of a right to act as a motor carrier.

(11) The department may exempt in whole or in part from the requirements of this section any person who applies for such exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicle owned by him or operated under authority of his certificate or permit.

The Committee on Judiciary-Civil reported **HB 61** with the expression of opinion that the same should not pass.

The Committee on Judiciary-Civil reported **HB 586** with Committee Amendments attached thereto, **HB 619** with Committee Amendment attached thereto, **HB 650** with Committee Amendment attached thereto, and **HB 697** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 586, AN ACT relating to child support recovery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 205.710 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

As used in *this Act* [~~KRS 205.715 to 205.800~~], unless the context clearly dictates otherwise:

(1) *"Attorney general", which is defined in KRS 15.010, shall include his designee;*

(2) "Cabinet" shall mean the cabinet for human resources;

(3)[~~(2)~~] "Secretary" shall mean the secretary of the cabinet for human resources;

(4)[~~(3)~~] "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. *For the purposes of this Act, it shall also include an order of an authorized administrative body;*

(5)[~~(4)~~] "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States and is a recipient of or applicant for *services under Part D of Title IV of the Social Security Act* [~~public assistance~~];

(6)[~~(5)~~] "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree or judgment, whether interlocutory or final, and includes the duty to pay arrearages of support past due and unpaid in addition to medical support *if* [~~whenever~~] health care coverage is available at a reasonable cost;

(7)[~~(6) "Parent" shall mean the biological or adoptive parents and includes the father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state;~~

~~(7)~~] "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child *or who has applied for services under Part D of Title IV of the Social Security Act*; [~~and~~]

(8) "Consumer reporting agency" means any person *or organization* which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;[~~.~~]

(9) "Obligor" means a parent who has an obligation to provide support;

(10) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state or any other legal entity which hires and pays an individual for his services.

(11) "Income" means any of the following:

(a) Commissions, earnings, salaries, wages, and other income due or to be due in the future from his employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor.

(12) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(13) "Enforce" means to employ any judicial or administrative remedy under KRS 405.400 to 405.530 or under any other Kentucky law;

(14) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from aid to families with dependent children, supplemental security income or other continuing public assistance;

(15) "Parent" means a biological or adoptive mother, a father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute or administrative determination; and

(16) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor or both; compensation paid or payable for personal services, whether denominated as wages, salary commission, bonus or otherwise; periodic payments from pension and retirement programs;

and unemployment compensation and insurance policies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The division of child support is established in the office of the attorney general.

(2) The duties of the division of child support, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. 651 to 667;

(b) Serve as the information agency as provided in the uniform reciprocal enforcement of support act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act; and

(d) Enforce Kentucky child support laws, including collection of court-ordered child support arrearages and prosecution of persons who fail to pay child support.

(3) The attorney general shall establish a system to receive and process all child support payments. The system shall include compatible computer systems to record the payments. After the establishment of the compatible computer child support collection system, the attorney general, or his designee, shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(4) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the attorney general shall refer cases to the appropriate official for such action. The attorney general may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the attorney general in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the attorney general for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation.

SECTION 3. KRS 205.715 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

The payment of public assistance to or on behalf of a dependent child *shall create* [~~creates~~] a debt due and owing the state by the parent or parents of the child. *If*[~~; provided, however, that where~~] a court has ordered child support incident to a final divorce decree or other final order for child support, the debt shall be limited to the amount specified in the decree or order.

SECTION 4. KRS 205.720 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

By accepting public assistance for or on behalf of a needy dependent child, the recipient shall be deemed to have made an assignment to the *Commonwealth* [~~cabinet~~] of the right to any child support owed for the child or children up to the amount of public assistance paid by the *Commonwealth* [~~cabinet~~] to the recipient, including amounts which have accrued at the time the assignment is made. The *attorney general* [~~cabinet~~] shall be subrogated to the right of the child or the person having custody to collect and receive all child support payments and to initiate any support action existing under the laws of this state.

SECTION 5. KRS 205.721 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) All services available to individuals receiving aid to families with dependent children (AFDC) benefits shall also be available to individuals not receiving AFDC benefits, upon application by such individual with the *attorney general* [~~cabinet~~].

(2) The *attorney general* [~~cabinet~~] shall continue to provide IV-D services *if* [~~whenever~~] a family ceases to receive public assistance. The *attorney general* [~~cabinet~~] shall continue to provide services for a period not to exceed three (3) months from the month following the month in which the family ceased to receive public assistance. If authorized by the recipient, the *attorney general* [~~cabinet~~] shall continue to provide services beyond this period without requiring a formal application and without payment of the application fee specified in subsection (3) of this section.

(3) Except as provided in subsection (2) of this section, the *attorney general* [~~cabinet~~] is authorized to charge an application fee for such services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

SECTION 6. KRS 205.725 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) *If* [~~Whenever~~] the cabinet receives an application for public assistance on behalf of a needy dependent child or reviews the records of those currently receiving public assistance on behalf of a needy dependent child and it appears to the satisfaction of the cabinet that either or both parents have failed to provide support to the child, the cabinet *shall inform the attorney general who* may take appropriate action under this chapter, or any other appropriate state and federal laws and regulations, to assure that the responsible parent or parents provide support to the child.

(2) As used in *this Act* [~~KRS 205.730, 205.735, 205.765 and 205.785~~], the term "child" includes a child of an individual who is not receiving public assistance and who is eligible to receive child support services in accordance with Title IV-D of the Social Security Act.

SECTION 7. KRS 205.730 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) The *attorney general* [~~cabinet~~] shall attempt to locate absent responsible parents of children described in *Section 6 of this Act* [~~KRS 205.725~~].

(2) The *attorney general* [~~cabinet~~] shall serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, to answer interstate inquiries concerning deserting parents, to coordinate and supervise any activity on a state level in search of an absent parent, to develop guidelines for coordinating activities of any governmental agency in providing information necessary for location of absent parents, and is to process all requests received from an initiating county or an initiating state which has adopted the Uniform Reciprocal Enforcement of Support Act.

(3) In order to carry out responsibilities imposed under this chapter, the *attorney general* [~~cabinet~~] may request information and assistance from any governmental agency. All state, county and city agencies, officers and employes shall cooperate with the *attorney general* [~~cabinet~~] in determining the location of parents who have abandoned or deserted children with all pertinent information relative to the location, income and property of such parents, notwithstanding any provision of state law making such information confidential.

(4) The information which is obtained by the *attorney general* [~~cabinet~~] shall only be available to such governmental agency or political subdivision of any state for purposes of locating an absent parent to enforce their obligation of support.

SECTION 8. KRS 205.735 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

All business concerns doing business in this state, to the extent that they have employes working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, *shall* [~~are required to~~] provide the *office of the attorney general* [~~cabinet~~] with the following information upon certification by the *attorney general* [~~secretary~~] that the information is for the purpose of locating a parent and that the information obtained will be treated as confidential information by *the office of the attorney general* [~~this cabinet~~] or the agency or department of any other state which administers the *child support enforcement program pursuant to Part D of Title IV of the Social Security Act* [~~public assistance program~~] for the other state: full name, social security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) After the effective date of this Act, each support order entered by a court of competent jurisdiction shall provide for income withholding, which shall begin immediately.

(2) Each support order entered by a court of competent jurisdiction prior to the effective date of this Act shall be deemed to provide for an order of income withholding by operation of law. Income withholding shall take effect when the obligor is not providing support in the amount due and the full obligation is one (1) month delinquent, as determined by the office of the attorney general. The office of the attorney general shall send notice of the provisions of this subsection by certified mail, personal service or service as provided under Rule 4 of the Kentucky Rules of Civil Procedure to each obligor under a support order entered by a court of competent jurisdiction on or before the effective date of this Act to whom this subsection applies, giving notice that the income withholding shall take effect and that the obligor shall have ten (10) days to contest the income withholding.

SECTION 10. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

When a withholding order becomes final, the attorney general shall immediately send by certified mail to the employer of the obligor or any other person who is indebted to the obligor, a copy of the income withholding order or support order. Upon receipt of service, the employer or debtor of obligor shall be bound by the order. The employer or debtor of obligor may deduct the sum of one dollar ($1) for each payment made pursuant to the order to cover its administrative expenses. The order shall have priority as against any attachment, execution or wage assignment, unless otherwise ordered by the court. No order of income withholding or support order served on an employer shall constitute grounds for dismissal of the employe, refusing to employ, or taking disciplinary action against any obligor subject to withholding under this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The obligor shall give the name, address and social security number or federal employer identification number of his employer or debtor of obligor to the office of the attorney general at the time the order of income withholding or support order is issued or at the time the obligor receives notice of the entry of a support order, and shall immediately notify the office of the attorney general of the name and address of any subsequent employer or debtor of obligor.

(2) An employer or debtor who has been served with a withholding order shall notify the office of the attorney general if the obligor's income from that source is terminated, and provide the name and address of obligor's new employer, if known, or debtor, if known.

SECTION 12. KRS 205.745 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) A child support lien in favor of the *attorney general* [~~cabinet~~] shall attach to all personal and real property of the *obligor* [~~responsible parent~~] if he has failed to make child support payment in an amount equal to support payable for one (1) month.

(2) The *attorney general* [~~cabinet~~] shall file its claim of lien within *three (3) years* [~~one (1) year~~] from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the *attorney general* [~~cabinet for human resources~~], claims a lien in the amount of *($)*[ ] on the (describe property) of (name of *obligor* [~~parent~~]) for child support owed to *obligor's* [~~his~~] dependent children or for such public assistance moneys as may have been paid to *obligor's* [~~his~~] children by the cabinet for human resources."

(3) The *attorney general* [~~cabinet~~] shall notify the *obligor* [~~responsible parent~~] of the filing of its claim of lien.

SECTION 13. KRS 205.750 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) Child support payments made pursuant to a court order shall be made through a domestic relations clerk of the county or other *person or agency* [~~county officer~~] designated by the court to receive [~~such~~] payments and paid to the *attorney general* [~~cabinet~~] upon notice by the *attorney general* [~~cabinet~~] to the court and the

obligor [~~parent~~] that the child is a recipient of [~~public assistance or~~] services pursuant to Title IV-D of the Social Security Act.

(2) Payment of support payments by the obligor directly to a child who is receiving public assistance after the obligor has been notified pursuant to subsection (1) of this section does not abate the obligor's support obligation [~~to the cabinet~~].

SECTION 14. KRS 205.755 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

Any payments of support made on behalf of a needy dependent child who is receiving public assistance shall be deposited by the *attorney general* [~~cabinet~~] in a manner [~~prescribed by the secretary~~] which is consistent with state and federal law and regulations. Distribution of any payments so made shall be made in a manner [~~prescribed by the secretary~~] which is consistent with state and federal law and regulations.

SECTION 15. KRS 205.765 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

The *attorney general* [~~cabinet~~] may appear in any judicial proceeding on behalf of the dependent child in order to secure support for the child from his parent or parents.

SECTION 16. KRS 205.767 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) The *attorney general* [~~cabinet~~] shall require a parent in appropriate cases to give security, post bond, or give some other guarantee to secure payment of overdue support.

(2) The *attorney general* [~~cabinet~~] shall provide advance notice to the *obligor* [~~parent~~] regarding the delinquency of the support payment and the requirement of posting security, bond or guarantee. The *obligor* [~~parent~~] shall be notified of his rights and methods available to contest the impending action in compliance with due process of law and administrative regulations.

SECTION 17. KRS 205.768 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) The *attorney general* [~~cabinet~~] shall make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by a parent in cases where the overdue support exceeds one thousand dollars ($1,000). Amounts less than one thousand dollars ($1,000) may be reported by the *attorney general* [~~cabinet~~] upon request by the consumer reporting agency.

(2) The *attorney general* [~~cabinet~~] shall provide advance notice to the *obligor* [~~parent who owes the support~~] concerning the proposed release of the information to the consumer reporting agency and inform the *obligor* [~~parent~~] of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The *attorney general* [~~cabinet~~] may charge the consumer reporting agency a fee not to exceed the actual cost of providing the information.

SECTION 18. KRS 205.769 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) In cases deemed appropriate pursuant to established guidelines, the *attorney general* [~~cabinet~~] shall refer for state income tax refund offset verified amounts which are owed for overdue child supports where services are being provided by the *attorney general* [~~cabinet~~] pursuant to Title IV-D of the Social Security Act.

(2) In non-public assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family *by the Commonwealth*.

(3) Written notice in advance shall be provided the *obligor* [~~parent~~] of the referral for state income tax refund offset together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the *attorney general* [~~cabinet~~] shall promptly refund the excess amount pursuant to established procedures.

(5) The *attorney general* [~~cabinet~~] may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The revenue cabinet shall notify the *attorney general* [~~cabinet~~] of the parent's home address and social security number or numbers. The *attorney general* [~~cabinet~~] shall provide this information to any other state involved in enforcing the support order.

SECTION 19. KRS 205.770 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) *If* [~~Whenever~~] a child is receiving *services under Part D of Title IV of the Social Security Act* [~~public assistance~~] and the *attorney general* [~~cabinet~~] has taken action under the provisions of *this Act* [~~KRS 205.710 to 205.800~~] to obtain support on behalf of the child, matters concerning custody of the child and visitation rights of the parents shall not be used by either parent as a reason not to pay child support to the *attorney general* [~~cabinet~~].

(2) Upon a determination by the cabinet that such would be in the best interest of the child, the cabinet may petition a circuit court of proper jurisdiction in the name of the child to make a determination of child custody and visitation rights of a parent.

SECTION 20. KRS 205.780 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

At any time prior to a child's twenty-first birthday, the *attorney general* [~~cabinet~~] may institute a legal action against *an obligor* [~~a responsible parent~~] for the reimbursement of money paid by the *Commonwealth* [~~cabinet~~] for the benefit of the child through the public assistance programs.

SECTION 21. KRS 205.785 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) It shall be unlawful for anyone to knowingly refuse to give the *attorney general* [~~secretary~~] the name of a parent of a child for whom the *human resources* cabinet is providing public assistance or information which will assist the *attorney general* [~~secretary~~] in locating a parent of a child *for whom services are being provided under Part D of Title IV of the Social Security Act.*

(2) Any information gathered pursuant to subsection (1) of this section shall *not* [~~under no circumstances~~] be used in criminal prosecutions against the informant.

(3) It shall be unlawful for anyone to knowingly give the *attorney general* [~~secretary~~] the incorrect name of a parent of a child or to knowingly give the *attorney general* [~~secretary~~] incorrect information on the parent's whereabouts when it is done for the purpose of concealing the identity of the real parent of the child or when it is done with the intent of concealing the location of the parent.

(4) Failure to provide information as required in subsection (1) of this section or providing incorrect information as prohibited in subsection (3) of this section shall constitute a class A misdemeanor.

SECTION 22. KRS 205.790 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

The procedures, actions and remedies provided for in this *Act* [~~chapter~~] shall be in addition to and not in substitution of other proceedings provided by law.

Section 23. KRS 205.792 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND IS AMENDED TO READ AS FOLLOWS:

(1) In addition to the procedures for judicial determination and enforcement of support obligations described in *this Act* [~~KRS 205.710 through 205.800~~], the *attorney general* [~~cabinet~~] may employ administrative process, as described in *Sections 25 to 34 of this Act* [~~KRS 405.400 to 405.530~~], to determine and enforce support obligations when paternity is not in question.

(2) When administrative process is used to determine a minimum monthly support obligation [~~under KRS 205.710 through 205.800~~], the notice described in *Section 26 of this Act* [~~KRS 405.440~~] shall be served upon the parent within ninety (90) days of the date the state begins paying public assistance to or on behalf of a dependent child. If the notice is not served within ninety (90) days, the *attorney general* [~~cabinet~~] shall lose the right to reimbursement for payments made after the ninety (90) days and before notification, unless the *attorney general* [~~cabinet~~] has made reasonable attempts to locate a parent, in which case the ninety (90) days is tolled until the parent is located.

Section 24. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employes, *or to the attorney general* or to any board or official functioning under *Chapter 205 or this Act* [~~this chapter~~] which have been written, sent or made in connection with the requirements and administration of the cabinet *or the attorney general* shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court but no person testifying before the *attorney general or* secretary or his duly authorized *representatives* [~~representative~~] shall be exempt from punishment for perjury.

(2) Information obtained shall not be published or be open for public inspection except that necessary information and records *shall* [~~may~~] be furnished to:

(a) Public employes in the performance of their duties in connection with the administration of the public assistance *or child support enforcement* program *pursuant to Part D of Title IV of the Social Security Act;*

(b) All law enforcement agencies including *the attorney general,* county attorneys, commonwealth's attorneys, district and circuit court judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the general assembly of the Commonwealth of Kentucky and the Congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator;

(d) Any interested party at a hearing before the *attorney general or* secretary or his duly authorized *representatives* [~~representative~~] to the extent necessary for the proper presentation of his case; provided, that any names or information obtained through access to such records shall not be used for any commercial or political purposes; and

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employe of the cabinet of information obtained pursuant to KRS 205.835 is prohibited.

SECTION 25. KRS 405.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) When a parent who fails to support *a* [~~his~~] child is not obligated to provide child support by court order, the *attorney general* [~~cabinet~~] may determine the parent's minimum monthly support obligation based on scales and ranges *the attorney general* [~~it~~] shall develop by regulation, which shall take into account:

(a) The child's needs;

(b) The *custodial* parent's locality of residence;

(c) The *parents'* [~~parent's~~] gross income;

(d) The *parents'* [~~parent's~~] assets;

(e) The *parents'* [~~parent's~~] needs; and

(f) Any other factors the *attorney general* [~~cabinet~~] deems relevant.

(2) The *attorney general* [~~cabinet~~] may modify a parent's minimum monthly support obligation as established by the *attorney general* [~~cabinet~~] on its own or upon a parent's petition, but only upon a finding of the conditions described in KRS 403.250 for judicial modification of a support order.

(3) In establishing a parent's minimum monthly support obligation, the *attorney general* [~~cabinet~~] may utilize information about the parent and child which it has good reason to believe is reliable.

(4) Copies of the *minimum support obligation scale* [~~scales~~] shall be made available to the courts, county offices, prosecuting attorneys, and, upon request, to any other state or county office or agency in any way engaged in child support collection and enforcement.

SECTION 26. KRS 405.440 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

The notice of a minimum monthly support obligation shall be served in person or by certified mail, return receipt requested, and shall include at least the following:

(1) The name of the child for whom the support obligation is owed;

(2) The amount of the support debt accrued or accruing;

(3) A statement that the parent's earnings and property, both real and personal, are subject to judicial and administrative enforcement;

(4) That he may dispute the obligation amount or any other matter contained in the notice by requesting a dispute hearing within twenty (20) days;

(5) That, unless there is good cause as determined by the *attorney general* [~~secretary~~] for his failure to request a hearing, if he does not request a hearing, his agreement will be presumed and the first payment will be due twenty (20) days after receipt of the notice; and

(6) That if he requests a hearing and fails to appear, the hearing officer shall affirm the determination of minimum monthly support obligation.

SECTION 27. KRS 405.450 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) A hearing officer appointed by the *attorney general* [~~secretary~~] shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. The dispute hearing proceedings shall be mechanically recorded.

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the hearing officer's decision.

(3) The hearing officer's decision, reasons therefor and an explanation of the appeal process shall be served personally or sent by certified mail, return receipt requested, to the parent and the *attorney general* [~~cabinet~~], no more than thirty (30) days after the hearing. The decision shall establish the parent's liability, if any, for support.

(4) Within twenty (20) days of the parent's receipt of the hearing officer's decision, which shall be personally served or mailed by certified mail, return receipt requested, the parent or the *attorney general* [~~cabinet~~] may file an appeal in the circuit court in the county of the parent's or the child's residence.

(5) The parent shall, during the pendency of his appeal from the hearing officer's decision, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the *attorney general* [~~cabinet~~], which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

SECTION 28. KRS 405.460 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) When a parent is one (1) month delinquent on paying the full obligation on court-ordered or administratively determined child support, *which was set prior to the effective date of this Act,* the *attorney general* [~~cabinet~~] may use judicial or administrative remedies to enforce the support obligation without the necessity of any action by a hearing officer.

(2) In cases where the parent has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the debtor's receipt of the notice of support obligation or his refusal to accept the notice.

SECTION 29. KRS 405.465 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) *If, prior to the effective date of this Act,* [~~In any proceeding where~~] the court has ordered either or both parents to pay any amount for the support of a minor child and the full obligation is one (1) month delinquent, upon a finding by the court that the full obligation is one (1) month delinquent, the court shall order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the *attorney general* [~~court~~] to receive *the* [~~such~~] payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child. *If the support order was issued after the effective date of this Act, assignment of support payments shall begin immediately.*

(2) *The* [~~Such~~] order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of *the* [~~such~~] order upon *the* [~~such~~] employer and until further order of the court. *The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.*

(3) Any [~~such~~] assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) No assignment under this section by an *employer* [~~employe~~] shall constitute grounds for dismissal of the *obligor* [~~employe~~], *refusal* [~~refusing~~] to employ, or taking disciplinary action against any *obligor* [~~parent~~] subject to withholding required by this section.

(5) Nothing within this section shall preclude a court from ordering a wage assignment prior to any arrearages as the court deems proper.

SECTION 30. KRS 405.467 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) In any case *determined before the effective date of this Act in which* [~~where~~] a parent is required to

pay court-ordered or administratively determined child support and an arrearage accrues that is equal to the amount of support payable for one (1) month, the *attorney general* [~~secretary~~] shall issue an order for withholding of earnings of the parent as is necessary to comply with the order. *The* [~~Said~~] payments shall be made through the domestic relations clerk of the county or other county officer designated by the *attorney general* [~~court~~] to receive *the* [~~such~~] payment. *If the support order was issued after the effective date of this Act, withholding of support payments shall begin immediately.*

(2) Advance notice shall be sent to the *obligor* [~~parent~~] prior to the issuance of the order to withhold earnings. The notice shall advise the *obligor* [~~parent~~] of the proposed withholding and the procedures to follow to contest the withholding. The only basis for contesting the withholding *shall be* [~~is~~] a mistake of fact, which means an error in the amount of current or past-due support or the identity of the parent.

(3) If the parent contests the withholding, the *attorney general* [~~cabinet~~] shall give the *obligor* [~~parent~~] an opportunity to present his case and decide if the withholding will occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The *attorney general* [~~cabinet~~] shall notify the *obligor* [~~parent~~] of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the *obligor* [~~parent~~] with the information contained in any order served on the employer with respect to the withholding.

(4) The *attorney general* [~~cabinet~~] shall serve the order to withhold earnings on the employer of *an obligor* [~~a parent~~] by certified mail, return receipt requested. The order shall state the amount to be withheld, including amounts to be applied to arrearages, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages, may not exceed the limit permitted under federal law.

(5) The employer shall be held liable to the *attorney general* [~~cabinet~~] for any amount which the employer fails to withhold from earnings due an *obligor* [~~employer~~] following receipt of an order to withhold earnings.

(6) Any order to withhold earnings under this *section* [~~subsection~~] shall have priority as against any attachment, execution or other assignment, notwithstanding any state statute or regulation to the contrary.

(7) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any *obligor* [~~parent~~] subject to withholding required by this section.

(8) The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(9) Interstate requests for withholding of earnings shall be processed by the *attorney general* [~~cabinet unless local officials as defined in KRS 205.800 specifically request authority to process those requests~~].

SECTION 31. KRS 405.470 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) The *attorney general* [~~secretary~~] may collect delinquent child support by issuing an order to withhold and deliver earnings or property of any kind, real and personal, which the *attorney general* [~~secretary~~] has reason to believe are due, owing or belonging to the parent.

(2) Fifty percent (50%) of the disposable earnings against which a support debt is asserted shall be exempt and may be delivered to the *obligor* [~~parent~~]. The only other exemptions allowed shall be those provided in KRS 427.030, 427.040 and 427.060.

(3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

SECTION 32. KRS 405.480 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) An order to withhold and deliver shall be personally served or mailed by certified mail, return receipt

requested, on the person in possession or control of the property and the *obligor* [~~parent~~].

(2) The order shall state the basis for and the amount of the support debt and that the person in possession or control of the property *of the obligor* may offer a bond satisfactory to the *attorney general* [~~cabinet~~] to avoid losing possession of the property.

SECTION 33. KRS 405.490 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) Any person who has been served with an order to withhold and deliver *obligor's* property shall answer the order within twenty (20) days.

(2) The person in possession of any *obligor's* property shall withhold it and deliver it to the *attorney general* [~~cabinet~~] in accordance with *the attorney general's* [~~the secretary's~~] directions; or the *obligor* [~~parent~~] may offer a bond which is satisfactory to the *attorney general* [~~cabinet~~].

(3) The person in possession of *obligor's* property shall have no liability or further responsibility after fulfilling *the* [~~his~~] duties under this section.

(4) When property or a bond is released to the *attorney general* [~~secretary~~] pursuant to an order to withhold and deliver property, the *attorney general* [~~secretary~~] shall hold the property or bond, pending final determination of the *obligor's* [~~parent's~~] liability by a court of competent jurisdiction.

SECTION 34. KRS 405.500 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) *When this Act requires* [~~Whenever KRS 405.400 to 405.530 require~~] delivery of a notice or other communication in person or by certified mail, return receipt requested, receipt shall be rebuttably presumed if the *obligor* [~~parent~~] or any other adult with apparent authority at the *obligor's* [~~parent's~~] address signs a receipt or if the *obligor* [~~parent~~] or other adult refuses to accept the notice or communication.

(2) In the case of a notice to withhold and deliver property served on a person in possession or control of property, receipt shall be rebuttably presumed if the person to whom the order is directed signs or refuses to sign a receipt or if his employe, agent or other adult with apparent authority signs or refuses to sign a receipt.

SECTION 35. KRS 405.510 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 TO READ AS FOLLOWS::

Persons holding earnings or real or personal property in Kentucky of obligors who owe child support shall honor valid orders of other states' courts to enforce child support obligations.

SECTION 36. KRS 405.520 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

The *attorney general* [~~cabinet~~] may promulgate regulations to implement the provisions of *this Act* [~~KRS 405.400 to 405.530~~]. *The attorney general may adopt regulations necessary to prevent conflict with federal laws and regulations or the loss of federal funds and to establish procedures necessary to guarantee due process of law.*

SECTION 37. KRS 405.991 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 15 AND AMENDED TO READ AS FOLLOWS:

(1) Any person or corporation violating the provisions of *Sections 29 and 30 of this Act* [~~KRS 405.465 or 405.467~~] shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates subsection (2) of *Section 34 of this Act* [~~KRS 405.490~~] shall pay *to* the *Commonwealth* [~~cabinet~~] the value of the property ordered to be held or the delinquent child support, whichever is lesser,

plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

Section 38. KRS 530.050 is amended to read as follows:

(1) A person is guilty of nonsupport*:*

(a) When he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or *to a* child adjudged mentally disabled, indigent spouse or indigent parent*; or*

(b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation established by such order and has been so delinquent for a period of at least two (2) months duration.

(2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court or administrative order to a minor or *to a* child adjudged mentally disabled, indigent spouse or indigent parent *and the failure results in:*

(a) An arrearage of not less than one thousand dollars ($1,000); or

(b) Twelve (12) consecutive months without payment of support; or

(c) The dependent having been placed in destitute circumstances [~~thereby leaving said dependent in destitute circumstances~~].

(3) A person has a duty to provide support for an indigent spouse, [~~and for~~] a minor *child or children*, or *a* child *or children* adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor. *For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.*

(6) Flagrant nonsupport is a Class D felony.

SECTION 39. KRS 403.215 is amended to read as follows:

After the effective date of this Act, [~~In~~] any new or modified order or decree which contains provisions for the support of a minor child *or minor children*, the order or decree shall include a provision that *if* [~~whenever~~] an arrearage accrues that is equal to the amount of support payable for one (1) month, a wage assignment pursuant to *Section 29 of this Act* [~~KRS 405.465~~] may issue.

SECTION 40. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of Section 24 of this Act shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

Section 41. There is hereby transferred from the cabinet for human resources to the office of the attorney general all child support recovery programs and all personnel, records, equipment and funds relating thereto.

Section 42. The following KRS sections are repealed:

205.740 Assignment of wages to satisfy support obligation.

205.760 Suit to recover money due dependent child.

205.775 Reimbursement of support payments.

405.400 Short title.

405.410 Purpose.

405.420 Definitions for KRS 405.400 to 405.530.

The Committee Amendment No. 1 to **HB 586** is as follows:

Amend printed copy of **HB 586** on page 12, line 1, after "*immediately*" insert the following:

"*except for good cause shown. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and the full obligation is one (1) month delinquent, as determined by the office of the attorney general or his designee*"; and

On page 12, line 9, delete "*The*" the first time it appears on the line and insert in lieu thereof "*(3) Prior to an initiation of income withholding, the*"; and

On page 12, line 10, delete "*subsection*" and insert in lieu thereof "*section*"; and

On page 12, line 14, after "*jurisdiction*" delete the remainder of the line; and

On page 12, line 15, delete "*to whom this subsection applies*"; and

On page 27, lines 19-20, delete "*which was set prior to the effective date of this Act.*"; and

On page 28, line 20, after "*immediately*" insert the following:

"*except for good cause shown. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and the full obligation is one (1) month delinquent, as determined by the office of the attorney general or his designee*"; and

On page 30, line 2, after "*immediately*" insert the following:

"*except for good cause shown. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and the full obligation is one (1) month delinquent, as determined by the office of the attorney general or his designee*".

The Committee Amendment No. 2 to **HB 586** is as follows:

Amend printed copy of **HB 586** on page 25, line 18, by adding, after the word "accruing", the words "*plus interest at the legal rate on the arrearage, if any*"; and

On page 28, line 16, by adding, after the word "court", the words "*plus interest at the legal rate on the arrearage, if any.*"; and

On page 29, line 23, by adding, after the word "order", the words *plus interest at the legal rate on the arrearage, if any*"; and

On page 30, line 26, by adding, before the word "and", the words *plus interest at the legal rate on the arrearage, if any.*".

HB 619, AN ACT relating to competency of testimony.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 421.210 is amended to read as follows:

(1) *(a) As to the testimony of a husband or wife concerning confidential communications during marriage, a confidential communication, as used in this subsection, shall be limited to the giving or exchanging of verbal discourse that would not be disclosed or acquired except for the confidence expected from the marital relationship.* In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, *except* [~~provided, however,~~] that in an action *involving* [~~for absolute~~] divorce or *child custody* [~~divorce from bed and board~~], either or both of them may testify concerning any matter involved in the action[~~, including questions of property, and provided further, that neither may be compelled to testify for or against the other~~].

(b) As to husband and wife privilege, during the existence of the marriage, neither spouse shall be compelled to testify for or against the other about any subject except a criminal matter that occurred before the marriage took place.

(2) Subject to the provisions of subsection (6) of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen (14) years of age, or by one who is of unsound mind or dead when the testimony is offered to be given except for the purpose, and to the extent, of affecting one who is living, and who, when over fourteen (14) years of age and of sound mind, heard such statement, or was present when such transaction took place., or when such act was done or omitted, and except in actions for personal injury, death or damage to property by negligence or tortious acts, unless:

(a) The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or

(b) The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or

(c) The decedent, or a representative of, or someone interested in, his estate, shall have testified against such person, with reference thereto; or

(d) An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify., with reference thereto.

(3) No person shall testify for himself, in chief, in an ordinary action, after introducing other testimony for himself, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

(4) No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall an ordained minister, priest, rabbi or accredited practitioner of an established church or religious organization be required to testify in any civil or criminal case or proceedings preliminary thereto, or in any administrative proceeding, concerning any information confidentially communicated to him in his professional capacity under such circumstances that to disclose the information would violate a sacred or moral trust, unless the person making the confidential communication waives such privilege herein provided.

(5) If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.

(6) A person may testify for himself as to the correctness of original entries made by him against persons who are under no disability — other than infancy — in an accounting, according to the usual course of business though the person against whom they were made may have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing, under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing,

and to make it subject to the order of the court for the purposes of the action, if required to do so by the party against whom he offers to testify.

(7) The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.

(8) A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witness; but the party called for such examination shall not be concluded thereby, but may rebut it by counter testimony.

(9) None of the preceding provisions of this section applies to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

The Committee Amendment No. 1 to **HB 619** is as follows:

Amend printed copy of **HB 619** on page 1, line 5, after "*verbal*" insert "*or written*".

HB 650. AN ACT relating to title to real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.135 is amended to read as follows:

(1) A person desiring a division of land held jointly with others, or an allotment of dower or curtesy, may file in the circuit court of the county in which the land or the greater part thereof lies a petition containing a description of the land, a statement of the names of those having an interest in it, and the amount of such interest, with a prayer for the division or allotment; and, thereupon, all persons interested in the property who have not united in the petition shall be summoned to answer not more than twenty (20) days after service of the summons. The written evidences of the title to the land, or copies thereof, if there be any, must be filed with the petition.

(2) The statutory guardian of an infant or guardian or conservator of a person adjudged mentally disabled may file or unite in the petition, in the names of, and in conjunction with such infant or mentally disabled person; and, if the petition be against an infant or mentally disabled person the guardian or conservator may appear and defend for them; if they fail to do so, the court shall appoint a discreet person for that purpose.

(3) Upon such a petition by all interested in the property, or upon the expiration of twenty (20) days after the service of a summons on all who have an interest in the property and have not united in the petition, the court may order the division, or allotment of dower or curtesy, according to the rights of the parties.

(4) The court shall appoint three (3) competent persons *as commissioners to determine the division or allotment of land* [~~to make the partition, or allotment of dower or curtesy, or both~~], having a due regard *for* [~~to~~] the rights of all parties interested. Before proceeding to act, the commissioners shall take an oath to discharge their duty impartially.

(5) The order of appointment shall fix a time and place for the meeting of the commissioners who shall meet accordingly; but, if prevented from meeting at the time and place so fixed, they may meet as soon thereafter as convenient, and may adjourn to such other time and place as they may agree upon, until their duty shall be performed.

(6) *The commissioners shall equitably determine the allotment* [~~They shall survey and allot~~] to the parties *of* their respective interests in the land. *A registered land surveyor shall perform the actual survey of the land in accordance with the determination made by the commissioners, and prepare the descriptions of the land, including all related maps, plats and documents, and he shall affix thereto his personal seal and signature. The commissioners shall*[~~, and~~] make report thereof to the court, which may either confirm, set aside or remand the report to the commissioners for correction.

(7) If the report be confirmed, a commissioner to be appointed for the purpose shall, by deed, convey to each party the land allotted to him.

(8) If the report be confirmed by the circuit court, it, *together with said surveyor's descriptions, survey and all related documents*, and the *applicable deeds* [~~deed~~] shall be certified by the clerk of that court to the county clerk, for record.

(9) Two (2) of the commissioners may act, if one (1) refuse or fail to do so.

(10) A party summoned may, by answer, controvert the allegations of the petition or contest the rights claimed therein; and, thereupon, the case shall be tried and decided as an ordinary action, but without the intervention of a jury.

(11) The costs of the action shall be apportioned among the parties in the ratio of their interests, except that the costs arising from a contest of fact or law shall be adjudged against the unsuccessful party.

(12) No verification of the pleadings shall be required.

(13) The commissioners *and the land surveyor* shall be paid a reasonable compensation, to be taxed as costs.

(14) This section *shall* [~~does~~] not affect the jurisdiction of courts of equity to make partition or allot dower or curtesy.

The Committee Amendment No. 1 to **HB 650** is as follows:

Amend printed copy of **HB 650** on page 3, line 3, after "*signature*" insert the following:

"*unless such actual survey and the resultant description, maps, plats, and documents pertaining to this land are already in existence*"

HB 697, AN ACT relating to condemnation proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 416.560 is amended to read as follows:

(1) Notwithstanding any other provision of the law, a department, instrumentality or agency of city, county or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class, having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the city, county or urban-county to institute condemnation proceedings on its behalf. If the governing body of the city, county or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation.

(2) If any department, instrumentality or agency of a city, county or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class, operates in more than one (1) governmental unit, it shall request the governing body of the city, county or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.

(3) A department, instrumentality or agency of the Commonwealth of Kentucky, other than the transportation cabinet, having a right of eminent domain under other statutes shall exercise such right only by requesting the finance and administration cabinet to institute condemnation proceedings on its behalf. If the finance and administration cabinet agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation.

(4) Prior to the filing of the petition to condemn, the condemnor or its employes or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests *and*[~~,~~] sounding [~~and appraisals~~], provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

(5) Prior to the filing of the petition to condemn, the condemnor shall hire three (3) independent persons, each having at least five (5) years experience in the real estate profession or three (3) years experience in appraisal work, to enter upon any land or improvement which it has the power to condemn, in order to make appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. The following persons shall not be deemed independent and shall not be hired: any person who is personally interested in the property, or interest or right therein, proposed to be taken or in the compensation and any damages to be awarded therefor, or who is related by blood or marriage to any person having such personal interest, or who stands in the relation of guardian and ward, master and servant, principal and agent, or partner, real estate broker, or surety to any person having such personal interest, or who has enmity against or bias in favor of any person who has such personal interest, or who is the owner of, or interested in, any real estate over or through which the work of internal improvement will pass. These persons shall be paid a reasonable fee. The fee shall not be based on a percentage of the appraised value of the property in question. Any actual damages sustained by the owner of a property interest in the property entered upon by persons hired by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

The Committee Amendment No. 1 to **HB 697** is as follows:

Amend printed copy of **HB 697** on page 2, line 17, by deleting "*and*" and by removing the brackets around the "," and the words "and appraisals" and removing the strike throughs; and

On page 3, line 1, after "(5)", by inserting "*If the condemnor is a public utility,*".

Representative Lear moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Lear moved the adoption of Legislative Citation No. 74. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds GARY COOPER, Account Executive for Kentucky with the Federal Home Loan Mortgage Corporation, on the celebration of your 50th Birthday on March 1, 1988. Not only are you recognized for your outstanding abilities in your dealings with savings and loan associations throughout the Commonwealth, but most especially for your attire of bow tie and suspenders which certainly distinguishes you from the passing crowd.

The House of Representatives joins Representative Bill Lear in acknowledging this very auspicious occasion and wishes you many more years of health, happiness and success as one of our adopted "hillbillies".

Representative White moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative White moved that his vote be changed from "nay" to "yea" on **SB 214**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "nay" to "yea" on **SB 214**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 441**, by Representative Heleringer:

Amend printed copy of HCS for **HB 441** on page 8, after line 10, by adding the following language:

"Section 3. KRS 342.310 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, any administrative law judge, the board or any court before whom proceedings are brought under this chapter shall require the losing party to pay the following costs of the prevailing party: expert witness fees expended and the cost of original deposition transcripts.

(2) If any administrative law judge, the board or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted or defended them."

Floor Title Amendment to **HB 593**, by Representative Geveden:

Amend printed copy of **HB 593**, Title, to delete the title appearing thereon and to insert in lieu thereof "AN ACT relating to crimes and punishments."

Floor Amendment No. 1 to **HB 625**, by Representative Johnson:

Amend printed copy of **HB 625** on page 2, line 18 by deleting the word "*any*" and inserting in lieu thereof "*the*";

and on line 19 after "*234.190*" by inserting, "*prohibiting the filling of a tank without owner permission*".

Floor Amendment No. 1 to Committee Substitute to **HB 651**, by Representative Mason:

Amend printed copy of Committee Substitute to **HB 651** on page 8, line 8, after "violation.", by deleting the rest of the line; and

On page 8, by deleting lines 9, 10, and 11, up to "If" on line 11; and

On page 9, line 11, by adding after "*action*" the following: "*on a notice of noncompliance*"; and

On line 12, by deleting "*an*" and replacing it by "*one*"; and

On line 13, after "*cabinet.*" by inserting the following: "*This request shall not be construed as a waiver of the initial abatement period. After the on-site review by the cabinet supervisor, the period of remedial action may be adjusted.*".

Floor Amendment No. 1 to **SB 38**, by Representative Barrows:

Amend printed copy of GA Copy of **SB 38** on page 15, line 1, by deleting "*two (2)*" and inserting "*three (3)*" in lieu thereof;

On page 15, line 2, by deleting "*and*" and inserting a comma "," in lieu thereof;

On page 15, line 2, before the period (.) insert:

"*and the administrative fund. Moneys received into the program fund and the endowment fund may be transferred to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by Sections 3, 4, 5 and 6 of this Act. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070*"; and

On page 15, line 7, delete all language prior to the word "*gifts*".

Floor Amendment No. 2 to **SB 38**, by Representative Barrows:

Amend printed copy of GA Copy of **SB 38** on page 15, line 1, by deleting "*two (2)*" and inserting "*three (3)*" in lieu thereof;

On page 15, line 2, by deleting "*and*" and inserting a comma "," in lieu thereof;

On page 15, line 2, before the period (.) insert:

"*and the administrative fund. Moneys received into the program fund and the endowment fund may be transferred to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by Sections 3, 4, 5 and 6 of this Act. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070*"; and

Floor Title Amendment to **SB 139**, by Representative B. Jones:

Amend printed copy of **SB 139** by amending the title to read as follows: "An Act relating to financial administration."

The Clerk announced the following meetings:

Majority Caucus, March 2, 1988, upon adjournment .

The Committee on Counties and Special Districts, March 2, 8:30 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 2, 1988.

On the roll call the vote was yeas 75-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Handy, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Kerr, Layman, Lear, Lefevers, Lile, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, Ridley, Riner, Scorsone, Seum, Siler, B. Smith, R. Smith, Stumbo, Turner, Walker, White, Worthington, Yates. Nays 6-Casebier, Geveden, Heleringer, LeMaster, Overstreet, Preston.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 2, 1988

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Charles Geveden, Jr., Wickliffe, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 1, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 170**, **SB 184**, **SB 215**, **SB 224**, **SB 225**, **SB 244**, **SB 249**, **SB 270**, **SB 280**, **SCR 53**, **HB 65**, **HB 66**, **HB 71**, **HB 377**, **HB 457**, **HB 477**, **HB 564** and **HJR 27**.

Message received on **SB 8**: The Senate has appointed Senators O'Daniel, Karem and Travis to serve on a Conference Committee and a Free Conference Committee on **SB 8**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 3** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:30 p.m.)

HB 3 delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 940, by Representative LeMaster: AN ACT relating to judicial retirement.

HB 941, by Representative LeMaster: AN ACT relating to primary elections.

HB 942, by Representative Hancock: AN ACT relating to state personnel.

HB 943, by Representative Blevins: AN ACT relating to mobile homes.

HB 944, by Representative Riner: AN ACT relating to the prevention of the spread of the acquired immune deficiency syndrome.

HB 945, by Representative J. Harper: AN ACT relating to the disposition of forfeited property.

HB 946, by Representatives Ballard, Morris and Bruce: AN ACT relating to state police retirement.

HB 947, by Representatives Burch, Bronger, Layman, Lile, Priddy, M. Brown, A. Jones, Casebier, Gedling, L. Clark, Napier, Turner, J. Harper, Heleringer, Siler, Pritchett, Cyrus, Blevins, Hatcher, Yates, Guenthner, Preston, R. Smith, Will, P. Clark, Reinhardt, Gray, Ridley and Donnermeyer: AN ACT relating to pensions for firefighters in cities of the first class and declaring an emergency.

HB 948, by Representative Overstreet: AN ACT relating to pretrial release.

HB 949, by Representative Gedling: AN ACT relating to revenue and taxation.

HB 950, by Representative J. Harper: AN ACT relating to motor vehicles.

HB 951, by Representative Meyer: AN ACT relating to crimes and punishments.

HB 952, by Representative Hourigan: AN ACT relating to alcoholic beverages.

HB 953, by Representative Ark: AN ACT relating to banking.

HB 954, by Representative M. Brown: AN ACT relating to sheriffs.

HB 955, by Representative Lundergan: AN ACT relating to cosmetology.

HB 956, by Representatives Lundergan, Burch and McBee: AN ACT relating to horse racing.

HB 957, by Representative Pritchett: AN ACT relating to the presidential preference primary election.

HB 958, by Representative J. Harper: AN ACT relating to motor fuels taxation.

HB 959, by Representative L. Clark: AN ACT relating to revenue and taxation.

HB 960, by Representative Callahan: AN ACT relating to regulation of alcoholic beverages.

HB 961, by Representative Freibert: AN ACT relating to urban renewal agencies.

HB 962, by Representative Freibert: AN ACT relating to election offenses and the detection and prosecution thereof.

HB 963, by Representative Morris: AN ACT relating to the Kentucky development finance authority.

HB 964, by Representatives Callahan, Walker, Long and K. Harper: AN ACT relating to municipal government tort liability.

HB 965, by Representative R. Smith: AN ACT relating to cemeteries.

HB 966, by Representative Gray: AN ACT relating to employes.

HB 967, by Representatives Walker and Callahan: AN ACT relating to crimes and punishments.

HB 968, by Representative B. Richardson: AN ACT relating to the practice of chiropractic.

HB 969, by Representative Will: AN ACT relating to election officers.

HB 970, by Representative Will: AN ACT proposing an amendment to sections 144 and 160 of the Constitution of Kentucky relating to the election of local officials.

HB 971, by Representatives Will, Lundergan and Moberly: AN ACT relating to public schools.

HB 972, by Representative Reinhardt: AN ACT relating to crimes and punishments.

HB 973, by Representatives Worthington, Blandford, Stumbo, Richards and Rapier: AN ACT relating to legislative facilities.

HB 974, by Representative Farrow: AN ACT relating to the usage of transient room taxes.

HB 975, by Representative J. Harper: AN ACT relating to representation of indigents.

HB 976, by Representative Clarke: AN ACT relating to municipal premium tax.

HB 977, by Representative Clarke: AN ACT relating to revenue and taxation information.

HB 978, by Representative Crupper: AN ACT relating to revenue and taxation and declaring an emergency.

HB 979, by Representative Clarke: AN ACT proposing to amend Sections 97, 114, 117 and 118 of the Constitution of Kentucky relating to elected state officials.

HB 980, by Representative Noe: AN ACT relating to school finance.

HB 981, by Representative Gregory: AN ACT relating to motor vehicle registration plates.

HB 982, by Representative Burch: AN ACT relating to a centralized registry for persons with brain injuries.

HB 983, by Representative Lear: AN ACT relating to liability for criminal acts.

HB 984, by Representative LeMaster: AN ACT relating to corporations.

HB 985, by Representative LeMaster: AN ACT proposing an amendment of the Constitution of Kentucky relating to terms of office.

HB 986, by Representative Ark: AN ACT relating to oil and gas production reporting.

HB 987, by Representative Ark: AN ACT relating to probation and parole and making an appropriation therefor.

HB 988, by Representative K. Harper: AN ACT relating to the real estate commission.

HB 989, by Representatives Hancock, Farrow, P. Richardson, Crupper, Barrows, T. Jones and Long: AN ACT relating to retirement and declaring an emergency.

HB 990, by Representative Hancock: AN ACT relating to the legislative program review and investigation committee.

HB 991, by Representative Hancock: AN ACT relating to the regulation of construction.

HB 992, by Representative Arnold: AN ACT relating to the department of agriculture.

HJR 122, by Representatives Blevins, Adkins, Cline and Worthington: A JOINT RESOLUTION directing Morehead State University to establish a task force on the forest products industry and making an appropriation therefor.

HJR 123, by Representatives Hatcher and Bronger: A JOINT RESOLUTION requesting and petitioning the Congress of the United States to support and pass the extension of mortgage revenue bonds to December 31, 1992.

HCR 124, by Representatives Scorsone, White, Hoover, Gray, Freibert and Burch: A CONCURRENT RESOLUTION creating a legislative task force to study the impact of parental and family medical leave on both the public and private sector, and declaring an emergency.

HCR 125, by Representative Burch: A CONCURRENT RESOLUTION directing the Legislative Research Commission to appoint a Task Force to study teenage pregnancy in Kentucky and develop prevention and intervention recommendations related thereto.

HJR 126, by Representatives Burch and Bruce: A JOINT RESOLUTION directing the Kentucky Housing

Corporation to collect and evaluate data about the statewide availability and adequacy of housing, including publicly assisted housing programs and units, for low-income residents of Kentucky.

HR 127, by Representative Curd: A RESOLUTION congratulating the Murray State University basketball team for winning the Ohio Valley Conference basketball championship and adjourning in honor thereof.

HCR 128, by Representative Cyrus: A CONCURRENT RESOLUTION requesting and petitioning the Legislative Research Commission to study the "Motor Vehicle Lemon" law dispute resolution system to determine whether modifications should be made to better protect the consumer.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 933**, **HB 921**, **HB 923**, **HB 926**, **HB 917**, **HB 937**, **HB 934**, **HJR 121**.

Business Organizations and Professions: **HB 908**, **HB 913**.

Cities: **HB 907**, **HB 911**, **HB 915**, **HB 938**, **HB 909**, **HB 914**.

Counties and Special Districts: **HB 900**, **HB 902**, **HB 906**, **HB 935**.

Education: **HB 904**, **HB 927**, **HB 928**, **HB 939**.

Energy: **HCR 120**.

Judiciary-Civil: **HB 918**.

Judiciary-Criminal: **HB 925**.

Labor and Industry: **HB 910**, **HB 916**, **HB 936**.

Natural Resources and Environment: **HB 903**, **HB 920**, **HB 929**, **HB 930**, **HB 931**.

State Government: **HJR 117**, **HB 901**, **HB 905**, **HB 919**, **HB 922**, **HB 924**, **HB 932**.

Transportation: **HB 912**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Education: **HB 812**.

State Government: **HB 810**, **HB 811**, **HB 183**, **HB 827**, **HB 726**.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 589** with Committee Amendments attached thereto, **HB 663** and **HB 711** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 589. AN ACT relating to acquisition of natural areas and providing funding therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The general assembly hereby recognizes the benefit to the citizens of Kentucky of the acquisition and maintenance of certain natural areas for use as state parks, recreation areas, state forests, nature preserves, wildlife management areas and wetlands. It is, therefore, in the public interest to promote and fund the conservation of such areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a Kentucky conservation and recreation land acquisition board, referred to hereafter as "the board", which shall administer the Kentucky conservation and recreation land acquisition fund established in this Act and shall administer and approve all grants payable from the fund. The board shall consist of the commissioner of the department of agriculture, the commissioner of the department of fish and wildlife resources, the director of the Kentucky nature preserves commission, the secretary of the natural resources and environmental protection cabinet and the secretary of the tourism cabinet or their appointees, and two (2) members from the public sector appointed by the governor. The board shall receive staff support from the department for local government in the finance and administration cabinet.

(2) The board, in conjunction with the department for local government, shall promulgate such administrative regulations as are deemed necessary for application for funds from state agencies, review of proposed projects and approval of grants. Grants shall be made in amounts, for purposes, and to such state agencies as the board shall select. In choosing among competing purposes or expenditures, the board shall be guided by the principles set forth in the Kentucky statewide comprehensive outdoor recreation plan. The board shall either allow monies paid into the fund to accumulate or shall expend the whole or any part of the principal. The board shall use the fund to take advantage of federal or private funds available on a matching basis.

(3) Upon application to the board, cities and counties that experience lost property tax revenues from property rendered tax-exempt pursuant to this Act shall receive annual reimbursement from the fund in the amount of the lost revenue up to three hundred thousand dollars ($300,000). In any year in which funds are not available to fully reimburse such cities and counties, the board shall make payments on a proportional basis.

SECTION 3. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the areas to be acquired and maintained shall be defined as follows:

(1) "Natural area" means any area of land and water in public or private ownership, which either retains or has reestablished to some degree in the judgment of the board its natural character, though it need not be completely natural or undisturbed, or which has natural flora, fauna, biological, ecological, geological, scenic or archaeological features for scientific research, education, aesthetic enjoyment and habitat for plant and animal species and other natural objects.

(2) "Wetlands" means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

State agencies may acquire natural areas and wetlands as defined in this Act as well as acquire access and buffer land deemed necessary by the Kentucky conservation and recreation land acquisition board established by this Act. Acquisition of land and expenditure of maintenance funds using proceeds provided by this Act or from other sources shall be approved by the board prior to such action.

SECTION 5. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the state treasury a fund entitled "Kentucky conservation and recreation land acquisition fund." The fund shall primarily receive monies from the real estate transfer tax as provided herein but may also receive state appropriations, gifts, grants, federal funds and tax receipts. The fund shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet.

(2) Monies in the fund shall be used exclusively for the purposes set out in this Act and as deemed appropriate by the Kentucky conservation and recreation land acquisition board established herein.

(3) Monies in the fund shall not lapse at the end of the fiscal year. Any investment income accruing to the fund shall also remain in the fund at the end of the fiscal year and be available for expenditure as deemed appropriate by the board.

Section 6. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing (other than a will and other than a lease or easement), regardless of where made, executed or delivered whereby any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed is imposed at the rate of *one dollar ($1.00)* [~~fifty cents (50)~~] for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit [~~the balance~~] every three (3) months *one-half (1/2) of the balance* to the county treasurer, who shall deposit the money in the county general fund *and one-half (1/2) of the balance to the secretary of revenue who shall deposit the monies as they are received into the Kentucky conservation and recreation land acquisition fund.*

(5) The revenue cabinet may prescribe such rules and regulations as it may deem necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to such deed shall, upon conviction, be fined $50 for each offense.

(7) Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.

(8) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

The Committee Amendment No. 1 to **HB 589** is as follows:

Amend printed copy of **HB 589** on page 3, after line 22, insert the following new subsection:

"(3) "Parks" means any area of lands or waters located in Kentucky having scenic beauty, material or recreational utility, historic interest, natural phenomena or other benefits for family-oriented enjoyment."; and

on line 25, delete the word "*and*" and insert a comma (,) after the word "*areas*"; and

on line 25, add the words "*and parks*" after the word "wetlands".

The Committee Amendment No. 2 to **HB 589** is as follows:

Amend printed copy of **HB 589** on page 1, line 9, after the period add the following sentence:

"It is also in the public interest to further specify that the managing agencies of any areas defined herein as "natural areas" and "wetlands" and acquired under the provisions of this Act shall be encouraged to open such areas for properly licensed hunting and fishing."

The Committee Amendment No. 3 to **HB 589** is as follows:

Amend printed copy of **HB 589** on page 2, line 6, by adding after the word "*government*" a "." and then deleting the following words "*in the*"; and on line 7, by deleting line 7 in its entirety.

On page 4, line 16, delete the words "*secretary of the finance*" and insert in lieu thereof "*commissioner of local government.*"; and on line 17, delete line 17 in its entirety.

HB 663, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is appropriated out of the general fund in the state treasury for the purpose of compensating persons and companies herein named for claims which have been duly audited and approved according to law, but which have not been paid because of lapsing or insufficiency of former appropriations against which said claims were chargeable, the sums hereinafter specified:

Scott Gross Co. Inc. 664 Magnolia Ave. Lexington, Kentucky 40505-3789	$ 1,699.11
Lexington Copy Products 2365 Harrodsburg Rd. Suite B225 Lexington, Kentucky 40504	$ 2,178.00
Dan Boone Company 1097 E. Kentucky P.O. Box 4115 Louisville, Kentucky 40204	$ 3,824.79
Methodist Hospital of Kentucky 911 South By Pass Road Pikeville, Kentucky 41501	$ 331.80
Gateway Press, Inc. 4500 Robards Lane P.O. Box 32548 Louisville, Kentucky 40232	$ 8,699.38
Greenview Hospital 1801 Ashley Circle Bowling Green, Kentucky 42101	$ 502.40
Paris-Bourbon County Ambulance Service P.O. Box 228 Paris, Kentucky 40361	$58.75
The Greenup News 207 Harrison Street Greenup, Kentucky 41144	$6.56
Florence Crittenton Home of Lexington, Inc. 519 West Fourth Street Lexington, Kentucky 40508	$6.00
Cole, Harned and Broderick 921 College Street P.O. Box 1869 Bowling Green, Kentucky 42101	$23,700.00
Polly, Craft, Asher and Smallwood P.O. Box 786 Whitesburg, Kentucky 41858	$17,923.09
Rockcastle County Fiscal Court University of Kentucky Medical Center	

P.O. Box 119
Lexington, Kentucky 40501-0119 . . . . $71,875.67

Joe S. Wheeler
P.O. Box 626
Russellville, Kentucky 42276 . . . . $13,000.00

I. C. System, Inc.
444 East Highway 96
P.O.Box 64378
St. Paul, Minnesota 55164-0378 . . . . $ 212.30

(2) The claims hereinafter enumerated are for the payment of State Treasury checks payable to the persons, or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

Check #G2,728,645 dated August 26, 1974
Gladys L. Dutton, et al
J. G. Prather, Attorney
P.O. Box 106
Somerset, Kentucky 42501 . . . . $ 193.78

Check #T6,938,893 dated June 6, 1978
Dorsie G. Bailey II
Nunn Blvd.
Cadiz, Kentucky $1.00

Check #T9,329,739 dated April 7, 1981
Lane T. Tuttle
2945 Wintergarden Dr. #1
Lexington, Kentucky 40502 . . . . $32.89

Check #P7,908,984 dated December 3, 1980
Michael R. Frankel
2227 Cherokee Parkway, Apt. 7
Louisville, Kentucky 40204 . . . . $59.30

Check #G5,464,348 dated November 15, 1978
Coy Estridge, Admr.
Mont Hovious Estate
R. H. Hutchison, Jr., Attorney
108 N. Reed St.
Columbia, Kentucky 42728 . . . . $87.77

Check #T8,613,915 dated May 23, 1980
Luther C. Smith
4400 Decoursey Ave.
Covington, Kentucky 41015 . . . . $34.41

Check #149670 dated March 6, 1967
Check #T0,328,103 dated May 16, 1969
Claudia Booth, Executrix
Estate of Lonie Booth
Route 1
Ashland, Kentucky 41101 . . . . $37.05

Check #T3,011,968 dated May 31, 1973
Check #T2,445,461 dated July 28, 1972
Estate of Edna Sprowl
Gladys Pritchard
Maurice Williamson

Co-Admrs. of Edna Sprowl Estate
Deposit Bank of Monroe County
P.O. Box 307
Tompkinsville, Kentucky 42167 . . . . $24.00

Check #T3,155,619 dated July 20, 1973
Agnes Foster, Admin.
Estate of Chas. S. Foster
Route 7
Glasgow, Kentucky 42141 . . . . $31.00

Check #T5,333,778 dated May 21, 1976
Anthony J. Modica
2052 Deauville Dr.
Lexington, Kentucky 40504 . . . . $11.00

Check #T5,998,021 dated April 29, 1977
Wilford Adams
Prestonsburg, Kentucky 41653 . . . . $24.00

Check #T6,138,563 dated June 3, 1977
Alvis L. Shelton
Route 2, Hutcherson Hgts.
Hodgenville, Kentucky 42748 . . . . $ 123.00

Check #P1,245,204 dated March 28, 1977

Check #T8,779,115 dated June 13, 1980
Harold Kincaid
Beattyville, Kentucky 41311 . . . . $42.93

Check #T7,421,059 dated April 5, 1979
Raymond A. Klein
P.O. Box 10634
Riviera Beach, Florida 33404 . . . . $3.15

Check #T8,118,032 dated February 27, 1980
Jas. F. Wallace
3221 Condit St.
Ashland, Kentucky 41101 . . . . $2.49

Check #G6,581,343 dated March 27, 1980
Dorothy S. Dowe, R.N.
Central State Hospital
Louisville, Kentucky 40223 . . . . $25.56

Check #G4,889,196 dated January 12, 1978
Check #G4,889,197 dated January 12, 1978
Foster L. Hauntz
Kentucky Home Life Building
Louisville, Kentucky 40202 . . . . $90.00

Check #G5,052,363 dated April 19, 1978
John A. Wills, Exec.
Estate of John F. Wills
Route 3, Box 323
Taylorsville, Kentucky 40071 . . . . $ 102.18

Check #G3,731,478 dated April 16, 1976
Aristella Jackson

1209 Winifred Street
Greenup, Kentucky 41144 . . . . $5.50

Check #T8,650,189 dated June 3, 1980
John P. Meador
1250 Riverview Lane
Prestonsburg, Kentucky 41653 . . . . $3.62

Check #G6,633,347 dated April 23, 1980
Selma Ginsburg
2011 Liberty Avenue
Ironton, Ohio 45638 . . . . $21.33

Check #G1,875,828 dated February 12, 1973
Charles Nagel
133 Ridgewood Place
Ft. Thomas, Kentucky 41075 . . . . $1.96

Check #P6,893,917 dated May 20, 1980
Check #P7,213,113 dated July 22, 1980
Check #P7,063,285 dated June 24, 1980
J. P. Starling
1577 Parsons Place
Louisville, Kentucky 40205 . . . . $ 2,701.43

Check #T7,103,980 dated February 6, 1979
Freda Dunn
425 Martinsville Road
Oakland, Kentucky 42159 . . . . $2.01

Check #T6,219,186 dated July 1, 1977
Janet Banta
1005 Arapaho Trail
Frankfort, Kentucky 40601 . . . . $ 130.17

Check #T7,873,389 dated June 27, 1979
Charles A. Wilson
507 W. St. Catherine St.
Louisville, Kentucky 40203 . . . . $ 111.00

Check #P5,621,881 dated September 14, 1979
A. M. Sims
Murray State University
Sparks Hall
ATTN: Debbie Wagoner
Murray, Kentucky 42071 . . . . $ 201.57

Check #P3,176,675 dated May 11, 1978
Glendolyn N. Hughes
402 Ewing Street
Frankfort, Kentucky 40601 . . . . $ 101.02

Check #G3,372,979 dated September 22, 1975
Alvin Bogie
Transportation Cabinet
Division of Toll Facilities
Room 925 - State Office Building
Frankfort, Kentucky 40601 . . . . $ 119.28

Check #G2,124,614 dated July 24, 1973
J. L. Riley Sr., Admr.

P. T. Riley Estate
J. L. Riley Jr.
Kirkpatrick Building
Russellville, Kentucky 42276 .... $ 1,614.80

Check #G4,251,968 dated February 7, 1977
Fred Thomas
Route 2, Box 630
Derickson Lane
Stanton, Kentucky 40380 .... $29.88

Check #G8,386,086 dated August 19, 1982
Pauline Owens and West Ky. RECC
020-700-Acct. No. 83010001
Route 1
Bardwell, Kentucky 42023 .... $ 189.00

Check #G6,353,219 dated January 4, 1980
Amy Powell
10219 Bob Gray Rd.
Knoxville, Tennessee 37932 .... $50.00

Check #P8,116,708 dated January 12, 1981
Elizabeth J. Gale
105 Dogwood Circle
Richmond, Kentucky 40475 .... $36.85

Check #T8,685,569 dated June 9, 1980
Larry N. Black
Route 1, Box 192
Cookeville, Tennessee 38501 .... $15.81

Check #T8,574,253 dated May 16, 1980
Jennifer M. Dunn
702 Homestead Blvd.
Louisville, Kentucky 40207 .... $15.00

Check #R1,253,829 dated September 5, 1980
Marie L. Baldree
Phelps Lane
Box 183-C Rt. 4
Milan, Tennessee 38358 .... $ 112.26

Check #561969 dated July 12, 1967
Marjorie M. Mansfield
2907 Dundee Road
Louisville, Kentucky 40205 .... $7.43

Check #T0,727,806 dated December 8, 1982
John R. Geisen, Jr.
328 Monmouth St.
Newport, Kentucky 41071 .... $62.45

Check #P9,273,597 dated September 4, 1981
H. J. Vanshuren
5810 Southland Ter.
Louisville, Kentucky 40214 .... $ 319.78

Check #P8,588,692 dated April 21, 1981
Dwayne A. Mosier
475 E. Lockwood Ave.

St. Louis, Missouri 63119 .... $25.67

Check #P0722,052 dated November 23, 1976
Check #P1,855,953 dated August 5, 1977
Check #P2,093,450 dated September 28, 1977
Check #P2,238,311 dated October 26, 1977
Check #P2,387,987 dated November 28, 1977
Check #P3,572,018 dated August 4, 1978
Check #P3,991,786 dated October 27, 1978
Check #P4,268,989 dated December 20, 1978
Check #P4,469,095 dated February 7, 1979
Check #P6,119,366 dated December 19, 1979
Check #P6,435,323 dated February 26, 1980
Check #P6,635,397 dated March 26, 1980
Check #P6,804,304 dated April 28, 1980
Check #P7,740,978 dated October 28, 1980
Check #P7,894,003 dated November 25, 1980
Check #P8,220,187 dated February 9, 1981
Check #P8,502,952 dated March 27, 1981
Check #P9,399,180 dated September 25, 1981
Check #P9,538,977 dated October 27, 1981
Check #P0,158,044 dated February 24, 1982
Check #P0,314,665 dated March 29, 1982
William M. Layton II
1003 Walnut Street
Hopkinsville, Kentucky 42240 .... $ 9,192.48

Check #T7,321,645 dated March 19, 1979
Alva Blacklock III
78 Ashley Hall
Plantation Rd. A 52
Charleston, South Carolina 29407 .... $23.64

Check #T8,841,866 dated August 28, 1980
Estate of Harve W. Mobley
Mary Jo Mobley Walther, Co-Ex.
P. O. Box 857
Burlington, Kentucky 41005 .... $20.00

Check #G5,844,866 dated May 16, 1979
Dr. William G. Clouse
1127 West Main Street
Richmond, Kentucky 40475 .... $ 652.00

Check #A4,005,148 dated March 1, 1981
Martha Hill
c/o City of Louisville
Treasury Dept.
City Hall Annex
Louisville, Kentucky 40202 .... $ 188.00

Check #A5,582,551 dated January 1, 1983
Oscar Miller
Rt. #3, Box 65
Dewitt, Kentucky 40930 .... $ 162.00

Check #G7,818,055 dated November 25, 1981
Naomi R. Coates Exrx.
Odie Mae Sewell Est.
Coy/Coy/Moberly Attys.
212 N. 2nd Street
Richmond, Kentucky .... $ 203.94

Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized hereby to pay the following listed claims from the following funds:

(1) The Transportation Cabinet is authorized to make payment from their Transportation Fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

Check #G3,981,009 dated September 2, 1976
Woodford Circuit Court Clerk
Commonwealth vs. L. J. Mitchell
Transportation Cabinet
State Office Building
Frankfort, Kentucky 40601 . . . . $ 600.00

Check #G4,003,045 dated September 16, 1976
John R. Peterson
1814 Wenatchee Pl.
Louisville, Kentucky $5.00

Check #G3,960,700 dated August 23, 1976
Marilyn Harned
2701 Alice Ave.
Louisville, Kentucky $5.00

Check #G6,820,766 dated July 31, 1980
Christopher T. Ward
C-10 County Jail
Hartford, Kentucky $5.00

Check #G6,688,262 dated May 21, 1980
Grace Wood
c/o Transportation Cabinet
State Office Building
Frankfort, Kentucky 40601 . . . . $ 400.00

Check #G8,436,992 dated September 16, 1982
McGinley Lane Co.
George McGinley Supply Co.
230 E. 8th St.
Bowling Green, Kentucky 42101 . . . . $ 3,000.00

Check #G6,979,791 dated October 15, 1980
James Huffaker
Grace Huffaker &
Portland Fed. Savings & Loan $13,500.00

(2) The Kentucky Retirement System is authorized to make payment from their retirement fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

Check #R1,371,724 dated June 5, 1981
Edith H. Rodgers
Route 1
Crittenden, Kentucky 41030 . . . . $ 129.17

(3) The Cabinet for Human Resources is authorized to make payment from their unemployment compensation fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

Check #U2,491,037 dated April 24, 1981
Lawrence E. Darnell
P. O. Box 998
Lexington, Kentucky 40588 . . . . $ 256.00

Check #U9,725,427 dated October 17, 1979
Ona P. Hook
125 Kingston
Nashville, Tennessee 37207 . . . . $ 120.00

Check #U1,105,158 dated August 14, 1980
Henry C. Burchfield
2004 Parkland Dr.
Somerset, Kentucky 42501 . . . . $ 120.00

Check #U3,694,537 dated February 9, 1982
Deborah D. Swope
1002 Coleman Ct., Rt. 8
Harrodsburg, Kentucky 40330 . . . . $32.00

Check #U0,848,510 dated July 8, 1980
Nancy S. Hendricks
Rt. 1, 455 Cox Rd.
Oakland, Kentucky 42159 . . . . $ 120.00

Section 3. The persons and companies named above having in good faith furnished the services, supplies, and materials enumerated, and the Commonwealth having received the benefits of same, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

HB 711, AN ACT relating to roads and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) There is created a commission to review and recommend cooperative and innovation road and bridge construction or maintenance projects between two (2) or more units of local government: The commission shall receive and review road and bridge projects submitted on behalf of local governments and recommend that the department of highways participate in matching funds in an amount not to exceed fifty percent (50%) of the total project cost. For administrative purposes, the commission shall be attached to the Kentucky transportation center established pursuant to KRS 177.375 to 177.380. Staff of the center shall assist in the formulation of policies and procedures to implement the provisions of this Act.

(2) Eligible road or bridge projects shall occur as a result of an agreement between two (2) or more units of local governments and may include such projects as consolidation of local highway departments, purchase of equipment on a cooperative basis, cost sharing on any road construction or maintenance project, cost sharing on any bridge construction or maintenance project, or any type of project which the commission would deem to encourage cooperation or merging of highway programs or projects between two (2) or more units of local government.

(3) Upon receipt of a recommendation of a road project from the commission, the secretary shall ensure that up to fifty percent (50%) of the project cost is set aside from the funds prescribed in KRS 177.320(1) to match the local participation of said project. The commission shall not recommend a total number of projects which exceed the state appropriation for any fiscal year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

The commission shall review and judge projects for approval based on the following criteria.

(1) The level of cooperation between local units of government including such factors as:

(a) Number of participating local units of government;

(b) Length of time that any cooperative agreement will remain in effect;

(c) Equity involved in the project for each local government;

(d) Amount of local support from each local entity; and

(e) Combination of services employed in the project including contributions of funds, personnel, machinery and materials.

(2) The innovation of the project being proposed to include the following:

(a) Originality of the service or project to be performed;

(b) Effectiveness of the project to the local communities and as it might promote additional cooperation between local units of government; and

(c) Need for the project.

(3) A cost and benefit analysis of the project to be undertaken including:

(a) Ability of the local government to support the proposed project;

(b) The financing options which are being considered by the affected units of local government; and

(c) Overall financial merit of the project.

SECTION 3. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) Membership of the commission established by Section 1 of this Act shall include the following:

(a) State highway engineer;

(b) Deputy secretary for rural roads;

(c) Commissioner of the department of local government;

(d) Dean of the college of engineering at the University of Kentucky or his appointed designee;

(e) Dean of the college of engineering at the University of Louisville or his appointed designee; and

(f) Executive director of the area development district who serves as chairman of the transportation committee for the directors.

(2) Meetings of the board shall be called as needed to review any project which may qualify for approval under Section 1(2) of this Act.

(3) The secretary of transportation shall appoint the chairman of the commission. Members shall serve without compensation. Four (4) members shall constitute a quorum for doing business.

Section 4. There is hereby appropriated from the rural secondary road fund established pursuant to KRS 177.320(1) six hundred thousand dollars ($600,000) for fiscal year 1988-1989 and six hundred thousand dollars ($600,000) for fiscal year 1989-1990 for the sole purpose of matching local funds for projects approved by the commission.

The Committee on Appropriations and Revenue reported **HB 578**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 578, AN ACT relating to state fiscal obligations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.872 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 56.870(1), KRS 56.870 to 56.874 shall not apply to any financing by the turnpike authority of Kentucky until July 1, 1982, and shall not apply to any refinancing transaction by any agency, authority, board, corporation, cabinet, commission or other agency or instrumentality of the Commonwealth, if such refinancing transaction results in a net debt service savings to such agency, authority, board, corporation, cabinet, commission or other agency or instrumentality of the Commonwealth.

(2) The secretary of the finance and administration cabinet shall report to the general assembly in the branch budget recommendation, defined in KRS 48.010, on the net debt service savings, any funds released from a debt service reserve fund, *any non-expended lease rental funds,* or any other funds generated as a result of any refinancing *or early retirement,* or other mechanism approved by any agency, authority, board, corporation, cabinet, commission or other agency or instrumentality of the Commonwealth after July 15, 1986. No portion of any net debt service *or lease rental* savings realized subsequent to a refinancing or open market bond purchase and available during the biennium in which the savings are realized, any debt service reserve fund released, *any lease rental funds appropriated to an agency for payments to a public authority for the use of property, buildings, or roads which have remaining debt obligations,* or other funds generated shall be expended for any of the purposes for which such agency, authority, board, corporation, cabinet, commission, or agency or instrumentality of the Commonwealth may be authorized by law to perform. The general assembly shall on a biennial basis appropriate the net debt service savings as described, any debt service reserve fund, *lease rental funds* or other funds generated, reported by the finance and administration cabinet, to a special escrow account for each bond issue within the finance and administration cabinet. The proceeds within this account shall be used to accelerate the payment of outstanding principal and interest, either through open market bond purchases or investments at maximum yield, in addition to the amounts budgeted for such purposes over the biennium, on definitive bonds, temporary bonds or interim financing secured by bond anticipation notes, loan agreements or other means issued by an agency, authority, board, corporation, cabinet, commission or other agency or instrumentality of the Commonwealth. The finance and administration cabinet shall report to the general assembly on a biennial basis the amount of total funds utilized in the escrow account to retire the outstanding principal and interest and the amount of principal and interest so retired, or to be retired, for each agency, authority, board, corporation, cabinet, commission or other agency or instrumentality of the Commonwealth. In the event that the funds appropriated to the escrow account cannot be used in the biennium for the purposes prescribed by this subsection, the finance and administration cabinet shall so report and provide the reasons therefor. The funds appropriated shall not lapse at the end of the biennium but be carried forward to the next biennium to be utilized for the purposes prescribed by this subsection.

(3) In the event the cost of an authorized bond project exceeds its estimated cost, as approved by the general assembly, the financing of such project may be authorized upon approval by the secretary of the finance and administration cabinet, so long as such cost does not exceed the estimated cost by more than twenty-five percent (25%). In the case of financing of any bond project approved by the general assembly, the costs of issuance of bonds or notes shall be added to project costs in determining the principal amount of authorized financing of any such project.

The Committee Amendment No. 1 to **HB 578** is as follows:

Amend printed copy of **HB 578** on page 2, line 11, after the word "perform." insert the following: "*Exempt from this restriction are any funds which would be governed by the 1986 or subsequent federal tax laws regarding use of tax-exempt bond proceeds. Such monies may be applied to replace bonds authorized to be issued or placed in the Capital Construction Equipment Purchase Contingency Fund, the General Fund Surplus Expenditure Account, or the Road Fund Surplus Expenditure Account. Subsequent debt service savings from the replaced authorization shall accrue to the special escrow accounts defined herein.*"

The Committee on Appropriations and Revenue reported **HB 653** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Counties and Special Districts reported **HB 629** with Committee Amendments attached thereto, **HB 635**, **HB 644** and **HB 796** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 629, AN ACT relating to tax collectors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all taxes on motor vehicles collected by him for the preceding month, *less the collection fee of the county clerk, which shall be deducted before payment to the depository*. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the cabinet for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall report and deposit such collections with the state, after *deducting* [~~receiving~~] the appropriate commissions due from these collections, for distribution to the proper tax district.

(6) The cabinet shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 2. KRS 160.500 is amended to read as follows:

(1) School taxes shall be collected by the sheriff for county school districts and by the regular tax collector of the city or special tax collector for the independent school districts at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular or special tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee equal to his expense but not less than one and one-half percent (1 1/2%) and not to exceed the rate of four percent (4%) for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members of the independent school district board of education shall fix a fee for such special tax collector at a rate of not less than one and one-half percent (1 1/2%) and not more than four percent (4%) of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the

aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (3) for each separate school tax bill, to be paid by the independent district board of education.

(4) The county clerk shall be the ad valorem tax collector for motor vehicle taxes for county and independent school districts, and shall be allowed a commission of *four percent (4%)* [~~two percent (2%)~~] of all such moneys collected for any school district, *which commission shall be deducted monthly before payment to the depository of the district board of education.*

(5) For collections related to January 1, 1984 assessments other than motor vehicles, no county or independent school district shall fix a fee for the sheriff or special tax collector at a lesser percentage rate than was fixed in the prior year.

(6) The general assembly of Kentucky finds that commission and fees set by the general assembly for service rendered by county clerks, sheriffs and special tax collectors, are the reasonable costs of collection of taxes by the officers and their offices. The officers shall not be required to account further to the district boards of education for their costs of collection.

Section 3. KRS 160.510 is amended to read as follows:

The tax collector shall, on or before the tenth day of each month, pay to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month, *less the collection fee of the tax collector, which shall be deducted before payment to the depository of the district board of education.* The amount so paid together with the classes of property from which it was received shall be reported in writing to the treasurer of the board. The report shall be accompanied by a duplicate of the receipt for the money given to the tax collector by the depository. The tax collector shall make final settlement with the district board of education at the same time he makes final settlement with the local taxing authority to which he is responsible. Blanks for such purposes shall be furnished by the state board of education.

The Committee Amendment No. 1 to **HB 629** is as follows:

Amend printed copy of **HB 629** on page 1, line 5, by inserting after the word "all" the words "*ad valorem*".

The Committee Amendment No. 2 to **HB 629** is as follows:

Amend printed copy of **HB 629** on page 4, line 25,

by deleting ", *sheriffs and special*"; and

on page 4, line 26, by deleting "*tax collectors,*".

The Committee Amendment No. 3 to **HB 629** is as follows:

Amend printed copy of **HB 629** on page 4, line 13, by bracketing and striking through the words "be allowed", and by substituting therefor the word "*receive*".

HB 635, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 74 IS CREATED TO READ AS FOLLOWS:

This section establishes the procedure whereby the governing bodies which control the area of a water district may elect to regulate the affairs of the district in lieu of state regulation by the public service commission.

(1) As used in this section:

(a) The term "district" or "water district" means any special district organized under this chapter, including districts or commissions which provide water, sewer, gas, or any combination of these services; and

(b) The term "governing body" means the fiscal court of a county or the legislative body of a city.

(2) The board of commissioners of the water district may, upon its own motion, or at the request of a fiscal court which governs all or part of the area of the district, undertake an investigation of the feasibility and desirability of transfering regulatory responsibility for the district from the state public service commission to local government. The investigation shall consider, but not by way of limitation, the cost of regulation and the timeliness of decisions, the need for and availability of professional expertise within the regulatory body, and the effect of a transfer, if any, on customers' bills. If the board of commissioners concludes from its investigation that the district and its customers will benefit from a transfer to local regulation, it shall present its recommendations to the governing body or bodies which control the territory of the water district. The board of commissioners shall present a written report with its recommendations, containing the findings of its investigation, a plan for local regulation of the water district in accordance with subsections (4) and (5) of this section, and such other facts or studies as may help the local governing bodies to formulate a proper decision regarding the transfer of regulatory control.

(3) Upon receipt of the written report and recommendations of the water district board, the fiscal court of a water district which lies entirely within one (1) county shall schedule a public hearing on the matter of assuming local regulatory control over the water district, shall notify the public service commission, and shall advertise the hearing as provided in KRS 424.130. If the water district extends into more than one (1) county, or includes an incorporated city, the governing bodies may elect to hold a single combined hearing on the proposal.

(4) If the whole area of the water district lies within the unincorporated area of one (1) county, and the fiscal court determines to undertake regulation of the district, the fiscal court may, by ordinance, place the water district under its jurisdiction for a renewable period of ten (10) years. The ordinance shall at minimum set out the procedures for fiscal court approval of district utility rates, service expansions and financing, and shall provide for adequate public notice of any proposed action, a procedure to determine when public hearings will be held, and a procedure to resolve disputes between the district and utility customers.

(5) If the water district extends beyond the area of a single county, or includes the area of an incorporated city, then the local governing bodies may enter into a joint agreement as provided by KRS 65.210 to 65.300 to regulate the water district. The agreement shall be enacted by ordinance by each governing body which controls an area within the boundaries of the water district. The agreement may specify that the regulation of the water district shall be undertaken by one (1) county fiscal court on behalf of the several governing bodies, or by a body comprised of the whole membership of the governing bodies, but shall not create a board or commission to regulate the district. The agreement shall at minimum set out the procedures for local government approval of the district utility rates, service, expansions, and financing, for a renewable term of ten (10) years, shall provide for adequate public notice of any proposed action, a procedure to determine when public hearings will be held, and a procedure to resolve disputes between the district and utility customers.

(6) Upon final enactment of the ordinance or joint agreement, the public service commission shall be notified of the action, and asked to release the water district from its jurisdiction on the effective date of the ordinance, which shall be ninety (90) days after final passage unless a later date is specified in the ordinance. Upon receipt of notice, the public service commission shall take the necessary steps to remove the water district from its regulation and to transfer such documents as are requested to the new regulatory body.

(7) The provisions of this section refer only to regulation by the public service commission of Kentucky under KRS Chapter 278, and do not affect the responsibility of other state agencies to inspect, oversee, or regulate any water district operation.

Section 2. KRS 278.015 is amended to read as follows:

Unless the local legislative body or bodies which govern the area served by a water district elect to regulate the district under Section 1 of this Act, [~~Notwithstanding any of the provisions of KRS Chapter 74~~] any water district, combined water, gas or sewer district, or water commission shall be a public utility and shall be subject to the jurisdiction of the public service commission in the same manner and to the same extent as any other utility as defined in KRS 278.010, except when a wholesale supplier selling water to a water district, combined water, gas or sewer district, or water commission increases its rates, the water district, combined water, gas or sewer district shall have the authority to increase its rates commensurate with the wholesale supplier without prior approval by the commission. Within twenty (20) days after any such increase in rates, the district shall file its revised tariffs with the commission, together with a copy of the notice from its wholesale supplier showing the increase in the rate charged to the utility, and a statement of the volume of purchased water used to calculate the increase in rates. The commission shall approve the filing or establish revised rates by order no later than thirty (30) days after the above documents are filed with it. Prior to or at the time of the first billing of the new rates, the district shall give notice to its customers of the increase.

HB 644, AN ACT relating to community action agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 273.415 is amended to read as follows:

(1) A community action agency shall be organized and shall operate subject to the provisions of KRS 273.405 to 273.453. To the extent KRS 273.405 to 273.453 are inconsistent with the provisions of this chapter, the provisions of KRS 273.405 to 273.453 shall be controlling.

(2) A community action agency shall be organized and operate subject to the provisions of KRS 65.210 through 65.300 and KRS 273.405 to 273.453.

(3) One (1) or more community action agencies may form a separate organization to provide a specific service that would be otherwise unavailable to low income persons within the community action agencies' service area. The board of any organization so formed shall include local elected officials from the service area, representatives of the private sector in the service area and representatives of the community action agencies in the service area to ensure the representation of the low income and target residents. Any organization so formed, serving as an instrumentality of one (1) or more community action agencies, shall be eligible for associate membership in any association of community action agencies consistent with group bylaws, and shall be eligible for benefits such as group insurance and retirement programs for which community action agencies are eligible, subject to approval by the association.

HB 796, AN ACT relating to blighted and deteriorated property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 99.700 is amended to read as follows:

(1) It is hereby found:

(a) That there exists in many cities *and counties* in this Commonwealth blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menace, which is injurious to the public health, safety, morals and general welfare of the residents of the Commonwealth, and are beyond remedy and control solely by regulatory process in the exercise of the police power;

(b) That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:

1. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;

2. Necessitate expensive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;

3. Constitute an economic and social liability;

4. Substantially impair or arrest the sound growth of the community;

5. Retard the provision of decent, safe, and sanitary housing accommodations;

6. Depreciate assessable values;

7. Cause an abnormal exodus of families from these neighborhoods; and

8. Are detrimental to the health, the well-being and the dignity of many residents of these neighborhoods;

(c) That this menace cannot be effectively dealt with by private enterprise without the aids provided herein;

(d) That the benefits which would result from eliminating the blighted properties that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this Commonwealth generally.

(2) It is hereby declared:

(a) That it is the policy of this Commonwealth to protect and promote the health, safety, and welfare of the people of the Commonwealth by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

(b) That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of the Commonwealth;

(c) That the necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

Section 2. KRS 99.705 is amended to read as follows:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city *or county* housing, building, plumbing, fire or related codes; or

(b) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or

(c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the city *or county*, has been designated by the department responsible for enforcement of the code as unfit for human habitation; or

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property; or

(e) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use; or

(f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin; or

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential, and related uses as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including, but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

Section 3. KRS 99.710 is amended to read as follows:

(1) If the legislative body of a city *or county* finds and declares that there exists in the city *or county* blighted or deteriorated properties and that there is need in the city *or county* for the exercise of powers, functions and duties conferred by KRS 99.705 to 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by ordinance.

(2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employe of the city *or county* whose duties include enforcement of city *or county* housing, building, plumbing, fire or related codes shall be appointed to the commission.

Section 4. KRS 99.715 is amended to read as follows:

A city *or county* may acquire by, eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to KRS 99.705 to 99.730, and shall have the the power to hold, clear, manage or dispose of property so acquired, for residential and related use pursuant to the provisions of KRS 99.705 to 99.730.

Section 5. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city *or county* agency as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city *or county* agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in *counties and* cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city *or county* under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

Section 6. KRS 99.725 is amended to read as follows:

The legislative body of the city *or county* may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the commission if it finds:

(1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.

Section 7. KRS 99.730 is amended to read as follows:

No officer or employe of the city *or county*, or of the vacant property review commission, who in the course of his duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employe owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employe for any property or interest therein acquired by the city *or county* from such officer or employe unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

The Committee on Judiciary-Criminal reported **HB 520** with Committee Substitute and Committee Amendment attached thereto, **HB 721** with Committee Amendments attached thereto, **HB 766** with Committee Amendment attached thereto, **HB 16** with Committee Amendment attached thereto, **HB 293**, **HB 436** with Committee Amendment attached thereto, **HB 505** with Committee Amendment attached thereto, **HB 512** with Committee Substitute attached thereto, **HB 674**, **HB 694**, **HB 772** and **HB 776** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 520. AN ACT relating to child safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) No person shall sell any new passenger vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(2) Any resident parent or legal guardian of a child, forty inches (40") in height or less, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets and highways of this state, shall have such child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(3) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(4) The term "motor vehicle" as used in subsection (2) of section shall not apply to recreational vehicles or trucks having a tonnage rating of more than one (1) ton.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action.

(6) *Upon first conviction of a violation of subsection (2) of this section, the penalty prescribed by KRS 189.990 shall be dismissed upon proof of acquisition, subsequent to the date of the issuance of the citation for such violation, of an appropriate child restraint device* [~~KRS 189.990 and 189.993 to the contrary notwithstanding, there shall be no penalty for the violation of this section. No peace officer shall issue a uniform citation or any other citation, other than a warning, for a violation of this section nor shall any arrest be permitted for violation of this section~~].

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) *Any person who violates the provisions of KRS 189.125(2) shall be fined not less than five dollars ($5) nor more than twenty-five dollars ($25).*

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

The Committee Substitute to **HB 520** is as follows:

HB 520, AN ACT relating to child safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.125 is amended to read as follows:

(1) No person shall sell any new passenger vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(2) Any resident parent or legal guardian of a child, forty inches (40") in height or less, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets and highways of this state, shall have such child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards*; provided, however, that the terms of this subsection shall not apply if all seat positions in the vehicle are occupied by persons other than a child of forty (40) inches in height or less.*

(3) As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(4) The term "motor vehicle" as used in subsection (2) of section shall not apply to recreational vehicles, *commercial vehicles, buses, pick-up trucks* or trucks having a tonnage rating of more than one (1) ton.

(5) Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action.

(6) *Upon first conviction of a violation of subsection (2) of this section, the penalty prescribed by KRS 189.990 shall be dismissed upon proof of acquisition, subsequent to the date of the issuance of the citation for such violation, of an appropriate child restraint device. The defendant may, at his option, present such proof to the county attorney who, upon receiving it, shall move for dismissal of the charge without the necessity of an appearance in court by the defendant.* [~~KRS 189.990 and 189.993 to the contrary notwithstanding, there shall be no penalty for the violation of this section. No peace officer shall issue a uniform citation or any other citation, other than a warning, for a violation of this section nor shall any arrest be permitted for violation of this section.~~]

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than

ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) *Any person who violates the provisions of KRS 189.125(2) shall be fined twenty-five dollars ($25), without court costs, which shall be prepayable by the defendant, at his option, provided such payment is made to the circuit clerk not later than twenty-four (24) hours prior to the defendant's prescribed court date.*

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

The Committee Amendment No. 1 to **HB 520** is as follows:

Amend printed copy of HCS for **HB 520** on page 9, line 7, following "*fined*" to add "*not less than five dollars ($5.00) nor more than*"; and

On page 9, line 8, to add at the beginning of the line "*however a fine of twenty-five dollars ($25)*"; and

On page 9, line 8, to delete "*which*".

HB 721, AN ACT relating to misdemeanor and violation records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has committed a misdemeanor or violation and such misdemeanor or violation:

(a) Did not involve the use of a deadly weapon or dangerous instrument; and

(b) Did not involve the death or serious physical injury or physical injury or threat thereof to another person, may apply to have his conviction purged from all public records in this Commonwealth two (2) years after his conviction for such misdemeanor or violation.

(2) Applications shall be directed to the sentencing court and the court shall, if the conditions in subsection (1) of this section have been met, issue orders to the appropriate state and local agencies to purge the conviction from their records.

(3) When a conviction is purged from the records pursuant to this section, it shall, for all purposes in Kentucky (except those for which the Constitution may require otherwise) be deemed not to have occurred, and no person whose conviction has been purged shall have to list the conviction on any application or other form for any purpose, unless such is required by federal law.

(4) This section shall not apply to matters where there is a federal statute or regulation to the contrary.

(5) This section shall apply to misdemeanors and violations only.

(6) This section does not apply to any traffic offenses under the provisions of KRS Chapter 186 to 189A.

The Committee Amendment No. 1 to **HB 721** is as follows:

Amend printed copy of **HB 721** on page 1, between lines 4 and 5, to add the following:

"*(a) Did not involve the imposition of a jail sentence by the Judge or jury; and*"; and

On page 1, line 5, to delete "*(a)*" and to insert "*(b)*"; and

On page 1, between lines 6 and 7, to add "*(c) Did not involve sexual abuse; and*"

And on page 1, line 7, to delete "*(b)*" and to insert "*(d)*"; and

On page 1, between lines 11 and 12, to add:

"*(2) Any person who has been charged with a misdemeanor or violation and who has been acquitted or where the charges against him have been dismissed, may apply to have all public records in this Commonwealth relating thereto purged two (2) years after such acquittal or dismissal.*

(3) Any person who has successfully completed a diversion program for an eligible offense under subsection (1) of this section may apply to have all public records in this Commonwealth relating thereto purged two (2) years after such completion."; and

On page 1, line 12, to delete "*(2)*'+and to insert "*(4)*"; and

On page 1, line 13, to delete "*in subsection*"; and

On page 1, line 14, to delete "*(1)*"; and

On page 1, line 17, to delete "*conviction*" and to insert "*record*" and to delete "*(3)*" and to insert "*(5)*"; and

on page 1, line 21, to delete "*conviction*" and to insert "*record*"; and

On page 2, line 1, to delete "*conviction*" and to insert "record"; and

On page 2, line 3, to delete "*(4)*" and to insert "*(6)*"; and

On page 2, line 5, to delete "*(5)*" and to insert "*(7)*"; and

On page 2, line 7, to delete "*(6)*" and to insert "*(8)*"; and

On page 2, below line 8, to add the following:

"Section 2. KRS 17.120 is amended to read as follows: *Upon conviction*, the department of justice shall forward one (1) copy of each photograph, set of fingerprints and general description report received by it to the federal bureau of investigation."

The Committee Amendment No. 2 to **HB 721** is as follows:

Amend printed copy of **HB 721** on page 2, below line 8, to add the following:

"(7) The provisions of this section with regard to purging of criminal convictions may be utilized only once during a person's lifetime and then only for one (1) eligible conviction."

The Committee Title Amendment to **HB 721** is as follows:

Amend printed copy of **HB 721** to delete the title appearing thereon and to insert in lieu thereof "AN ACT relating to criminal records."

HB 766, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Whoever abandons or discards in any place accessible to children any refrigerator, freezer, icebox or ice chest, of a capacity of one and one-half (1 1/2) cubic feet or more, which has an attached lid or door which may be opened or shut, or who, being the owner, occupant, lessee, or manager of the place, knowingly permits an abandoned or discarded refrigerator, freezer, icebox or ice chest to remain there in such condition, is guilty of a Class B misdemeanor.

The Committee Amendment No. 1 to **HB 766** is as follows:

Amend printed copy of **HB 766** on page 1, line 3, to add "*(1)*" at the beginning of the line; and

On page 1, after line 11, to add the following:

"(2) A refrigerator in use for another purpose shall not be considered as discarded provided it is securely locked to prevent unauthorized entry."

HB 16, AN ACT relating to appeals from district court and issuance of writ by circuit court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.080 is amended to read as follows:

(1) A direct appeal may be taken from district court to circuit court from any final action of the district court.

(2) The circuit court may issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause within its appellate jurisdiction.

(3) An appeal may be taken to the circuit court by the state in criminal cases from an adverse decision or ruling of the district court, but only under the following conditions:

(a) Such appeal shall not suspend the proceedings in the case;

(b) Such appeal shall be taken in the manner provided by the rules of criminal procedure and the rules of the supreme court, except that the record on appeal shall be transmitted by the clerk of the district court to the attorney general; and if the attorney general is satisfied that review by the circuit court is important to the correct and uniform administration of the law, he may deliver the record to the clerk of the circuit court within the time prescribed by the above-mentioned rules; and

(c) When an appeal is taken pursuant to this subsection, the circuit court, if the record so warrants, may reverse the decision of the district court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.

The Committee Amendment No. 1 to **HB 16** is as follows:

Amend printed copy of **HB 16** on page 1, lines 15 through 20 to delete the same; and

On page 2, lines 1 through 4 to delete the same; and

On page 2, line 5, to delete "*(c)*" and to insert in lieu thereof "*(b)*"

HB 293, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

A person sentenced to an alcohol or substance abuse treatment and education program pursuant to KRS 189A.040 who successfully completes the treatment and education program may apply to the court to reduce a jail sentence imposed under KRS 189A.010 by the amount of inpatient time spent in the treatment and education program. If the court finds that the defendant actually was confined in the facility operated by the treatment and education program, was an inpatient at the program, did not leave the facility and successfully completed the program, he shall give credit for each twenty-four (24) hour day spent as an inpatient as a day spent in jail for the purposes of service of a sentence of confinement in jail pursuant to KRS 189A.040.

HB 436, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether or not the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury then the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any misdemeanor or felony for which he has been sentenced to a term of imprisonment and granted a sentence of probation or conditional discharge shall be sentenced to pay a fine in an amount not to exceed the amount established for the appropriate classification as set out in the Kentucky Revised Statutes, or double his gain from commission of the offense, whichever is greater.

(3) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony may be sentenced to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars ($500); or

(b) For a Class B misdemeanor, two hundred fifty dollars ($250); or

(c) For a violation, two hundred fifty dollars ($250).

(4)[~~(3)~~] This section does not apply to a corporation.

The Committee Amendment No. 1 to **HB 436** is as follows:

Amend printed copy of **HB 436** on page 1, line 21, to place a period "." after the word "*Statutes*" and to delete the remainder of the line; and

On page 2, line 1, to delete the same.

HB 505, AN ACT relating to concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) A deadly weapon shall not be deemed concealed on or about the person if*:*

(a) It is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism; or

(b) Is completely encased in a container equipped with a zipper, snaps, or other similar closure, provided the closure is completely closed and no portion of the deadly weapon is accessible without opening the closure [~~it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism~~].

(5) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

Section 2. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) *All firearms forfeited pursuant to any section of this code which are not retained for official use shall be sold at public auction and the proceeds obtained therefrom be placed in the state treasury for the purpose of paying benefits to the next of kin of police officers killed in the line of duty. Other* property which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state if the property was seized by an agency of the state or peace officer thereof;

2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;

3. The department of fish and wildlife resources, if the property was seized by a peace officer of the department of fish and wildlife or was seized by any other officer for violation of KRS Chapter 150;

4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;

5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds) if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or

6. The state, if the property was seized by any combination of agencies listed above.

(c) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(d) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky state police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120 the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section, who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other

public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

The Committee Amendment No. 1 to **HB 505** is as follows:

Amend printed copy of **HB 505** on page 2, lines 3 through 6, to delete the same and to insert in lieu thereof:

"(b) If the weapon was carried in a container designed for that purpose under circumstances that would justify a prudent person in going armed for defensive purposes"

HB 512, AN ACT relating to plea bargaining in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) "Plea bargain agreement." This is an agreement reached between the Commonwealth's or county attorney and the defendant and defendant's counsel, if any, that includes a disposition of all or some of the charges against the defendant, without a trial on at least some of the charges. The plea bargain agreement shall be in writing before it is offered to the court for approval.

(2) "Interested party." Any person who has a legitimate input to offer into the final resolution of the plea bargaining process is an interested party. It is in the Commonwealth's or county attorney's sole discretion which interested parties may be included in the plea bargaining process.

SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) A Commonwealth's or county attorney is not obligated or required to enter into plea bargaining discussions with any defendant.

(2) Any failure to make an agreement between the Commonwealth's or county attorney and the defendant's attorney shall not be introduceable at later proceedings or on a trial of the same case.

(3) The Commonwealth's or county attorney may bargain directly with the defendant in any case provided the defendant is without counsel, and has been informed of his right to have counsel present at all stages of the prosecution and the defendant knowingly waives or gives up that right.

(4) The Commonwealth's or county attorney will not enter into any plea bargain discussions with any defendant represented by an attorney outside the presence of the defendant's attorney.

(5) All plea bargains shall be reduced to writing before presentation to the court for approval or rejection. The court shall receive the proposal and rule on whether to accept or reject the bargain. If accepted, the court shall enter the plea bargain agreement as written, but if rejected, the Commonwealth's or county attorney shall proceed as if there had been no plea bargain agreement.

(6) All plea bargains are subject to approval or rejection by the trial court. The trial court cannot modify the agreement without the consent of the Commonwealth's or county attorney and the defendant or the defendant's attorney.

(7) In the case of misdemeanors and Class D felonies, the Commonwealth's or county attorney may enter into plea bargaining agreements without the prosecuting witnesses or other interested persons, in the sole discretion of the Commonwealth's or county attorney.

(8) In the case of Class A, B, and C felonies, the prosecuting witnesses or other interested persons shall be informed of the plea bargaining effort by the Commonwealth's or county attorney, and offered the opportunity to participate, if such is in the furtherance of justice, in his sole discretion.

(9) A plea of guilty, or of guilty under the provisions of Alford v. North Carolina, shall have the same effect as if the person entering such plea had waived his right to a trial by jury and had knowingly plead guilty before the court.

The Committee Substitute to **HB 512** is as follows:

HB 512, AN ACT relating to plea bargaining in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) "Plea bargain agreement." This is an agreement reached between the Commonwealth's attorney and the defendant and defendant's counsel, if any, that includes a disposition of all or some of the charges against the defendant, without a trial on at least some of the charges.

(2) All plea bargains in circuit court shall be reduced to writing before presentation to the court.

HB 674, AN ACT relating to evidence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS FOLLOWS:

In any misdemeanor or traffic prosecution under KRS Chapter 186, 189, or 189A of the Kentucky Revised Statutes, a certified copy of the driving record of any person provided by the transportation cabinet shall be prima facie evidence of the driving record of the person and shall be admissible for all purposes, including but not limited to, penalty enhancements authorized by law.

HB 694, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service *(including all services for which the Commonwealth grants a license)*, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the department of revenue and required to be filed with the department of revenue as prescribed by law.

HB 772. AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) *Justices and judges of the court of justice, may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky.*

(5) A deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism.

(6)[~~(5)~~] Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class

D felony.

HB 776, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.055 is amended to read as follows:

(1) In all felony cases, the jury in its initial verdict will make a determination of not guilty, guilty, guilty but mentally ill, or not guilty by virtue of insanity, and no more. *Prior to rendering its initial verdict the jury shall be instructed by the court as to the penalty authorized by law for each offense charged in terms of years of incarceration, fine, or other penalty, and, if indicated by the jury instructions, the penalty authorized by law for lesser included offenses.*

(2) Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury in the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.

(a) Evidence may be offered by the Commonwealth relevant to sentencing including:

1. Minimum parole eligibility, prior convictions of the defendant, both felony and misdemeanor;

2. The nature of prior offenses for which he was convicted;

3. The date of the commission, date of sentencing and date of release from confinement or supervision from all prior offenses;

4. The maximum expiration of sentence as determined by the division of probation and parole for all such current and prior offenses; and

5. The defendant's status if on probation, parole, conditional discharge, or any other form of legal release;

(b) The defendant may introduce evidence in mitigation. For purposes of this section, mitigating evidence means evidence that the accused has no significant history of criminal activity which may qualify him for leniency. This section shall not preclude the introduction of evidence which negates any evidence introduced by the Commonwealth; and

(c) Upon conclusion of the proof, the court shall instruct the jury on the range of punishment and counsel for the defendant may present arguments followed by the counsel for the Commonwealth. The jury shall then retire and recommend a sentence for the defendant.

(3) All hearings held pursuant to this section shall be combined with any hearing provided for by KRS 532.080. This section shall not apply to sentencing hearings provided for in KRS 532.025.

(4) In the event that the jury is unable to agree as to the sentence or any portion thereof and so reports to the judge, the judge shall impose the sentence within the range provided elsewhere by law.

Calendar

HB 318, HB 482, HB 494, HB 543, HB 602, HJR 81, SB 49, HB 632, HB 640, HCR 64, HB 238, HB 378, HB 627, HB 689, HB 715, HJR 46, SB 12, SB 13, HB 61, HB 586, HB 619, HB 650 and **HB 697** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

A Free Conference Committee Report was filed on **SB 8**.

Representative Stumbo moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative J. Harper moved the adoption of Legislative Citation No. 77. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds the members of the Bullitt County Close Up Program. Through this forum you have been able to be a part of your state legislature by meeting with your officials, having an opportunity to personally discuss issues concerning state government and observing the operations of the legislative branch.

The House of Representatives and Representative John Harper commend you for your involvement in this government and youth program.

Representative Noe moved the adoption of Legislative Citation No. 71. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds EVARTS HIGH SCHOOL SCHOLASTIC TEAM for your many accomplishments. We commend the participation of your coaches: Connie Jones and Polly McLain; and team members: Robbie Redwine, Robert Carr, Kevin Crider, Michelle Stewart, Denise Luttrell, Brian Fleener, Gordon Pruitt and Willie Couch, who have been undefeated in Harlan County for the past four years. You have attended many tournaments and distinguished yourselves and your school by the awards received. Your appearance on WLEX-TV's In The Know, WSJK's Knoxville Scholar's Bowl and KET's Scholastic Challenge has been impressive and this prestigious body joins Representative Roger Noe in saluting you for your dedication and knowledge.

SB 38, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **SB 38**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **SB 38**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 2 to **SB 38**.

On the roll call the vote was yeas 24-Ballard, Barrows, Blevins, M. Brown, Bruce, Burch, Clarke, Donnermeyer, Geveden, Hancock, Heleringer, T. Jones, Mack, Maggard, McBee, Meyer, Moberly, Napier, Noe, Preston, Reinhardt, Robinson, Scorsone, Seum. Nays 57-Ackerson, Adkins, Allen, Altman, Ark, Arnold, Blandford, Bronger, J. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Curd, Deskins, Farrow, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Johnson, A. Jones, R. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mason, McElroy, Northup, O'Brien, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Riner, B. Smith, Strong, Stumbo, Turner, Walker, White, Will, Yates.

Committee Amendment No. 2 to **SB 38** was rejected.

Representative Barrows moved that **SB 38**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 2, 1988 roll call on **SB 38** - Appendix A.)

SB 38, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 38**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 625, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 625**. Agreed.

Representative Johnson moved that **HB 625**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 2, 1988 roll call on **HB 625** - Appendix A.)

HB 625, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 625**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 633, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 633**. Agreed.

Representative L. Clark moved that **HB 633**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 2, 1988 roll call on **HB 633** - Appendix A.)

HB 633, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 633**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 188 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **SB 188** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 2, 1988 roll call on **SB 188** - Appendix A.)

SB 188 was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 188** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 447 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 447** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 2, 1988 roll call on **HB 447** - Appendix A.)

HB 447 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 447** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 495 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HB 495** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 2, 1988 roll call on **HB 495** - Appendix A.)

HB 495 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 495** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 652, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Committee Substitute to **HB 652**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to Committee Substitute to **HB 652**. Agreed.

Representative Bruce moved that **HB 652**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 56, Nays 33. (See March 2, 1988 roll call on **HB 652** - Appendix A.)

HB 652, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 652**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 530, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Committee Amendment No. 1 to **HB 530**. Agreed.

Representative Riner moved that **HB 530**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 2, 1988 roll call on **HB 530** - Appendix A.)

HB 530, as amended, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 530**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 592 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 592** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 2, 1988 roll call on **HB 592** - Appendix A.)

HB 592 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 592** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 593, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 593** be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See March 2, 1988 roll call on **HB 593** - Appendix A.)

HB 593 was passed and the title agreed to.

Representative Geveden moved the adoption of the Committee Title Amendment to **HB 593**. Agreed; and the title agreed to.

Representative Geveden moved that the vote by which **HB 593**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 515, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Amendment No. 1 to **HB 515**. Agreed.

Representative Meyer moved that **HB 515**, as amended, be passed.

On the roll call the vote was: Yeas 67, Nays 19. (See March 2, 1988 roll call on **HB 515** - Appendix A.)

HB 515, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 515**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 909** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Little moved that the rules be suspended for a call of the roll to show co-sponsors of **HB 228**. Agreed.

The following members requested their names be added as Co-Sponsors of **HB 228**: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blevins, J. Brown, M. Brown, Bruce, Burch, Casebier, Castleman, P. Clark, Clarke, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Gedling, Geveden, Handy, K. Harper, Hatcher, Hoover, Hourigan, Jackson, A. Jones, R. Jones, Kerr, Layman, Lile, Little, Long, Mack, Maggard, Mason, Moberly, Morris, Napier, Nett, Noe, Noland, Preston, Priddy, Rapier, Reinhardt, Richards, Ridley, Riner, Scorsone, Seum, Stumbo, Todd, Turner, Walker, Will, Yates.

Representative Donnermeyer moved the adoption of Legislative Citation No. 73. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes May 15 - 21, 1988, as LAW ENFORCEMENT WEEK and May 15, 1988 as LAW ENFORCEMENT OFFICER MEMORIAL DAY throughout the Commonwealth of Kentucky.

We commend the Law Enforcement Officers for their distinguished record of commitment to the preservation of the Constitution and the laws of our Great State. The protection and defense of its citizens, their property and inalienable rights to life, liberty and the pursuit of happiness, have been demonstrated most effectively in your unbiased opinions for all citizens. Your service to humanity encompassed intrepidity, integrity, and dedication. We owe each man and woman officer an everlasting debt of gratitude for their unswerving devotion even when faced with great personal danger. We cite and acknowledge those officers who have given their lives in the line of duty, as they have given the ultimate and supreme sacrifice......life itself.

This prestigious body wishes to express our highest esteem and regards to you for upholding and enforcing the laws as well as protecting and defending each citizen of this Great Commonwealth.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 993, by Representatives Arnold, Ark, Farrow and Crupper: AN ACT relating to a linked investment loan program for agricultural diversification.

HB 994, by Representative B. Jones: AN ACT relating to workers' compensation.

HB 995, by Representatives Stumbo and Blevins: AN ACT relating to elections.

HB 996, by Representative Robinson: AN ACT relating to insurance rate regulation.

HB 997, by Representative Stumbo: AN ACT relating to sheriffs and making an appropriation therefor.

HB 998, by Representative R. Smith: AN ACT relating to outdoor advertising.

HB 999, by Representative Noe: AN ACT relating to water wells.

HB 1000, by Representative J. Harper: AN ACT relating to civil action.

HB 1001, by Representative Ford: AN ACT relating to the commercial application of pesticides.

HB 1002, by Representative Riner: AN ACT relating to crimes and punishments.

HB 1003, by Representative Barrows: AN ACT relating to educational testing.

HB 1004, by Representative Barrows: AN ACT relating to education.

HB 1005, by Representative Barrows: AN ACT relating to revenue and taxation.

HB 1006, by Representative Barrows: AN ACT relating to education finance.

HB 1007, by Representatives Nett, Yates, Callahan, Walker, Lile, Will, Northup, Bronger, K. Harper, Burch, Johnson, Blevins, P. Clark, Gedling, J. Harper, Reinhardt, Handy, Ackerson, Heleringer, Lefevers, Altman, Guenthner, L. Clark, Kerr, O'Brien, Hoover and Casebier: AN ACT relating to crimes and punishments.

HB 1008, by Representative Barrows: AN ACT relating to the power equalization fund.

HB 1009, by Representative Barrows: AN ACT relating to education.

HB 1010, by Representative Barrows: AN ACT relating to the power equalization program.

HB 1011, by Representative Priddy: AN ACT relating to appointments to boards and commissions in counties containing a city of the first class.

HB 1012, by Representative Hourigan: AN ACT relating to university instructors.

HB 1013, by Representative Stumbo: AN ACT relating to the professional fire fighters foundation program and the law enforcement foundation program funds, and making an appropriation therefor.

HB 1014, by Representative Long: AN ACT relating to dispensing of drugs by physicians.

HB 1015, by Representative Northup: AN ACT relating to workers' compensation.

HB 1016, by Representative Richards: AN ACT relating to dealer's license plate.

HB 1017, by Representative Richards: AN ACT relating to urban-county government.

HB 1018, by Representative Robinson: AN ACT relating to insurance.

HB 1019, by Representative Robinson: AN ACT relating to the conduct of elections.

HB 1020, by Representative Morris: AN ACT relating to insurance.

HB 1021, by Representatives Robinson and Stumbo: AN ACT relating to regulation of elections and declaring an emergency.

HB 1022, by Representatives B. Smith, Layman, Mack, P. Richardson, Crupper, Pritchett, Morris, R. Smith, B. Richardson, Gregory, Cline, Altman, Deskins, Todd, Robinson, Casebier, Siler, Keith, Guenthner, Richards, Lyne, M. Brown, Donnermeyer, Bronger, Kerr, Ford, Lundergan, Worthington, Blevins, P. Clark, Turner, Moberly, Napier, Burch, Bruce, Seum, Barrows, Gray and Priddy: AN ACT proposing an amendment to the Kentucky Constitution relating to elections.

HB 1023, by Representative Lear: AN ACT relating to horse racing.

HB 1024, by Representative Cyrus: AN ACT proposing to amend Section 100 of the Constitution relative to the qualifications of officers for counties and districts.

HB 1025, by Representative Donnermeyer: AN ACT relating to long-term care facilities.

HB 1026, by Representative Allen: AN ACT relating to public assistance.

HB 1027, by Representative Allen: AN ACT relating to service of process.

HB 1028, by Representative Allen: AN ACT relating to parental rights.

HB 1029, by Representatives Farrow and B. Smith: AN ACT relating to water.

HB 1030, by Representative Gray: AN ACT relating to marriage.

HJR 129, by Representative Barrows: A JOINT RESOLUTION directing the department of education to develop and implement a pilot program to determine the actual cost per pupil of programs funded through the foundation program and making an appropriation and declaring an emergency therefor.

HCR 130, by Representative Burch: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to study the implications of allowing denturists to practice independently of the board of dentistry and establish their own licensure board

HCR 131, by Representative Barrows: A CONCURRENT RESOLUTION urging the State Board of Education to implement a comprehensive accreditation program.

HJR 132, by Representative Burch: A JOINT RESOLUTION directing the Cabinet for Human Resources to consult with shelter providers of the homeless to develop and implement specialized outreach programs to assist the homeless.

HCR 133, by Representative Maggard: A CONCURRENT RESOLUTION directing the Governor to establish an East Kentucky Futures Commission.

HR 134, by Representative Allen: A RESOLUTION recommending that the appellate courts of Kentucky cease the practice of issuing opinions without publication.

The Committee on Rules reported **HB 662**, **HB 318**, **HB 482**, **HB 602**, **HB 619**, **HB 640**, **HB 650**, **HB 715**, **HJR 46**, **HCR 64**, **HJR 81**, **SB 12** and **SB 13** have been posted for passage in Orders of the Day, March 3, 1988.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 194**

The Committee on Rules reported **HB 61** has been returned to the Committee on Judiciary-Civil due to improperly reporting in Calendar.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 525**, **SB 95**, **SB 65**, **SB 104**, **HCR 116**, **HB 889**, **HB 842**, **SB 142**, **SB 148**, **SB 150**, **SB 166**, **HB 803**, **HB 748**, **HB 693**.

State Government: **HB 833**, **HB 932**.

Natural Resources and Environment: **HB 684**, **HB 892**.

Labor and Industry: **HB 830**, **HB 770**.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 87**, with Committee Substitute No. 2 attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Second Committee Substitute to **HB 87** is as follows:

HB 87, AN ACT relating to children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the natural family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently committed to the cabinet; and

(b) Placed in a foster family home or private child-caring or child-placing facility but remains under the supervision of the cabinet;

(5) "Local citizen review board" means a board which provides periodic permanency reviews of children committed to the cabinet and in foster care;

(6) "Permanence" means a relationship between a child and an adult which will last a lifetime, providing commitment and continuity in the child's relationships and having a sense of belonging;

(7) "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;

(8) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(9)[~~(8)~~] "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(10)[~~(9)~~] "State citizen review board" means a board created by KRS 620.310.

Section 2. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency, or the Kentucky state police, the cabinet or its designated representative, the commonwealth's attorney or the county attorney, by telephone or otherwise. *Any supervisor who receives from an employe a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation.*

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the commonwealth or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

Section 3. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report pursuant to KRS 620.030(1) or (2), the county attorney, the commonwealth's attorney, the local law enforcement agency or Kentucky state police, if they are the recipients of the report, shall forthwith notify the cabinet or its designated representative and the commonwealth or county attorney of the receipt of the report and its contents and, if the report alleges abuse, they shall investigate the matter and within forty-eight (48) hours make a written report to the cabinet or its designated representative and the commonwealth or county attorney concerning the action which has been taken on the matter.

(2) Upon the receipt of a report of alleged abuse pursuant to KRS 620.030(1) or (2) the cabinet or its designated representative, if it is the recipient of the report, shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and shall investigate the matter and within forty-eight (48) hours make a written report to the local law enforcement agency or the Kentucky state police and the county or commonwealth's attorney concerning the action which has been taken on the matter. The cabinet also shall investigate reports of alleged dependency and neglect but need not notify the local law enforcement agency or Kentucky state police or county attorney or commonwealth's attorney of such reports. *If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and they shall investigate the matter.*

(3) *School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.*

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer;

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours;

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if the officer has reasonable cause to believe that there exists an imminent danger. The officer shall, within twelve (12) hours of taking the child into such protective custody, request the court to issue an emergency custody order;

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

Section 4. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, assault or the infliction of fear of imminent physical injury, serious physical injury, or assault between family members; and

(2) "Family member" means a spouse, *including a former spouse,* parent, *a member of an unmarried couple which has a child in common,* child, stepchild or any other person related by consanguinity or affinity within the second degree.

Section 5. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010.

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, *former spouse,* parent, grandparent, child, [~~or~~] stepchild *or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple.* Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

Section 6. KRS 403.765 is amended to read as follows:

If, following the entry of an order authorized by KRS 403.740 or 403.750, the petitioner or the adverse party initiate an action in the circuit court under the provisions of this chapter, the orders of the circuit court *pertaining to the same subject matter* shall, upon service of same, take precedence over orders issued pursuant to KRS 403.740 or 403.750. *Orders of the district court shall remain in effect and shall be enforced in either district or circuit court.*

Section 7. KRS 213.190 is amended to read as follows:

(1) The cabinet for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such cabinet as provided by law when the cabinet is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources which shall not exceed four dollars ($4.00) for a copy of a *marriage, divorce* [~~death~~] or other certificate or search of the files, if no copy is found. The applicant shall pay a fee of five dollars ($5.00) for a copy

of a birth certificate, one dollar ($1.00) of which shall be collected for use by the cabinet for human resources for the sole purpose of contracting for the operation of private, not for profit self-help groups for parents who want to prevent or cease their physical, sexual or mental abuse of their children. *The applicant shall pay a fee of eight dollars ($8.00) for a copy of a death certificate, four dollars ($4.00) of which shall be remitted to the Child Victims' Trust Fund.*

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

(4) On January 1 and July 1 of each year, beginning in 1985, the cabinet for human resources shall furnish to each county clerk the name, address, birth date, sex, race and social security number of each resident of that county who has died since the date the previous data was submitted. The data submitted on January 1, 1985, shall include deaths since July 1, 1984. Such data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing such lists.

Motions, Petitions and Communications (continued)

Representative Lile moved the adoption of Legislative Citation No. 76. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and cites DONNA McKINNEY of WILKERSON ELEMENTARY for your many hours of voluntary work with the students of your school. By your involvement in the PTA organization you are showing your desire to continue to improve our educational system by working with students, parents and your community.

The House of Representatives joins Representative Bill Lile in commending you for your dedication and encouraging your continued commitment to academic excellence in the Commonwealth.

Representative Curd moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Curd moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION congratulating the Murray State University basketball team for winning the Ohio Valley Conference basketball championship and adjourning in honor thereof.

WHEREAS, in the showdown in Murray, Kentucky, last night, the Murray State University Racers defeated the Middle Tennessee State University Blue Raiders 82-66 to win the 1988 Ohio Valley Conference basketball championship; and

WHEREAS, this victory allows Murray State University to host the March 11-12 tournament that grants the winning team an automatic bid to the NCAA championship games; and

WHEREAS, while the success of the Racers this season is attributable to the disciplined and unselfish team play, special notice is directed to forward Jeff Martin, who is the fourth leading scorer in the nation among Division One, and guard Don Mann for their outstanding performances during this championship; and

WHEREAS, Coach Steve Newton and Associate Coach Mark Bernsen are to be commended for their genius as basketball coaches;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this body extends its congratulations to the Murray State University basketball team and coaches for winning the Ohio Valley Conference basketball championship and also extends its thanks and appreciation to the Racers for the hours of pleasure they have given their fans in the Commonwealth of Kentucky.

Section 2. That when the Senate of the General Assembly of the Commonwealth of Kentucky adjourns this day, Tuesday, March 1, 1988, it does so in honor of the Murray State University Racers.

Section 3. That the Clerk of the Senate is directed to transmit a copy of this resolution to Ms. Kala Stroup, President, Murray State University and Coach Steve Newton, Room 211, Stewart Stadium, Murray State University, Murray, Kentucky, 42071.

HR 127 was adopted by voice vote.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 3 to **HB 345**. Agreed.

Representative Geveden moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 515**. Agreed.

Representative Cyrus moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cyrus moved that he be recorded as voting "yea" on **HB 495**. Agreed.

Representative Guenthner moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Guenthner moved that he be recorded as voting "yea" on **HB 19**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 19, Representatives Seum, Will; **HB 204**, Representatives Crupper, Gray, K. Harper; **HB 228**, Representatives Bronger, Robinson; **HB 246**, Representative McElroy; **HB 248**, Representatives Casebier, McElroy; **HB 249**, Representatives Casebier, Farrow, McElroy; **HB 345**, Representatives Ackerson, Riner; **HB 429**, Representative Casebier; **HB 430**, Representative Casebier; **HB 431**, Representative Casebier; **HB 432**, Representative Casebier; **HB 447**, Representatives Casebier, Lile; **HB 522**, Representative Riner; **HB 581**, Representative White; **HB 592**, Representative Worthington; **HB 636**, Representative Altman; **HB 644**, Representative White; **HB 723**, Representative K. Harper; **HB 730**, Representative Mack; **HB 790**, Representative Lear; **HB 850**, Representatives Handy, Mason; **HB 868**, Representative Seum; **HB 934**, Representatives Altman, J. Harper, Hoover, Lefevers, Noland, White; **HJR 126**, Representative Castleman.

The following member filed a request to have his name withdrawn as co-sponsor:

HB 759, Representative J. Harper.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 318**, by Representative Nett:

Amend printed copy of **HB 318** on page 1, line 7, by deleting the words "*the public*" and by inserting in lieu thereof the words "*state accredited*";

And on page 1, line 7, by deleting the word "*of*" and by inserting in lieu thereof the word "*within*";

And on page 1, line 14, by deleting the words "*the public*" and by inserting in lieu thereof the words "*state accredited*";

And on page 1, line 15, by deleting the word "*of*" and by inserting in lieu thereof the word "*within*";

And on page 4, line 12, by deleting the words "*the public*" and by inserting in lieu the words "*state accredited*";

And on page 4, line 12, by deleting the word "*of*" and by inserting in lieu thereof the word "*within*".

Floor Amendment No. 1 to Committee Substitute to **HB 378**, by Representative Callahan:

Amend printed copy of House Committee Substitute for **HB 378** on page 11, line 1, after the word "*purchase*" by inserting the words "*or lease*".

On page 12, line 3, by placing a bracket in front of the word "License" and on line 5, by placing a bracket after the "." and striking through all bracketed material.

Floor Amendment No. 1 to **HB 494**, by Representative T. Jones:

Amend printed copy of **HB 494** on page 6, line 8, by deleting "*teachers' organization having the largest paid membership in the state*" and inserting "*superintendent of public instruction*" in lieu thereof; and

On page 6, line 9, by adding after the period "." the following:

"*There shall be one (1) position from each congressional district to be filled by a person who teaches in the district and two (2) state-at-large positions. The superintendent shall conduct a secret ballot election to be held on or before June 1 of each year to elect three (3) nominees for each of the open teacher positions. Teachers as defined in Section 1 of this Act shall be eligible to vote in the election and shall be provided with a ballot for that purpose.*"

Floor Amendment No. 1 to **HB 570**, by Representative Clarke:

Amend printed copy of **HB 570** on page 1, line 17, after the word "*furnished*", by adding the following: "*, unless that host is or should be aware that the person so served is already intoxicated*"; and

On page 2, line 18, after the word "*served*", by adding the following: "*, unless the person is or should be aware that the person served is already intoxicated*"

Floor Amendment No. 1 to Committee Substitute to **HB 573**, by Representative Blevins:

Amend printed copy of Committee Substitute to **HB 573** on page 2, line 25, by deleting the word "*continuous*" and inserting in lieu thereof "*repeated*"

On page 20, line 6, by deleting the words "*(zthienyl) - eyclohexanone*" and inserting in lieu thereof "*(2-thienyl) - cyclohexanone*"

Floor Amendment No. 2 to Committee Substitute to **HB 441**, by Representative Stumbo:

Amend printed copy of Committee Substitute to **HB 441** on page 1, after line 11, by inserting the following underlined language:

"*(3) Notwithstanding statutory authority to the contrary, all financial requirements of KRS 342.122 shall be divided equally between the special fund and the coal workers' fund.*"; and,

On page 4, on line 24, after the word "than" by inserting the following underlined language:

"one hundred million dollars ($100,000,000)";

and by deleting the underlined phrase,

"is required to satisfy awards and claims payable from the respective funds"; and,

On page 5, line 4, by deleting the underlined phrase *"adequate funding"*, and inserting in lieu thereof the following underlined language:

"one hundred million dollars ($100,000,000)".

The Clerk announced the following meetings:

The Committee on Capital Construction Oversight, March 3, 1988, 12:30 p.m.

The Committee on Agriculture and Small Business, March 3, 1988, 8:30 a.m., Room 103.

The Committee on Cities, March 3, 1988, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 3, 1988.

On the roll call the vote was yeas 74-Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hoover, Hourigan, Jackson, A. Jones, R. Jones, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, Moberly, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Stumbo, Turner, Walker, White, Will, Worthington, Yates. Nays 1-Preston.

The motion to adjourn was adopted.